Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX

Volume Two
Pages 405a-end

IN THE

SUPREME COURT OF THE UNITED STATES

Fall Term, 1978

No. 77-1410

William E. Butner, Petitioner,

vs.

United States, et al., Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT

Petition for Certiorari Filed April 4, 1978
Certiorari Granted June 12, 1978

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IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

In the Matter of: GOLDEN ENTERPRISES, INC.,

Debtor.

IN PROCEEDINGS FOR AN ARRANGEMENT

NO. ST-B-73-6

APPLICATION

To the Honorable Joseph R. Cruciani, United States Bankruptcy Judge:

The application of William E. Butner and Robert L. McKaughn, Jr., respectfully represents:

1. Your applicants have a second mortgage secured by a deed of trust upon certain real estate of the above debtor in the amount of Three Hundred Sixty Thousand ($360,000.00) Dollars. This deed of trust is recorded in Book 1051 at page 184, Catawba County Registry.

2. On May 4, 1973, said debtor filed a petition proposing an arrangement under Chapter XI of the Bank-

ruptcy Act.

3. An arrangement proposed by the debtor has been accepted by the creditors, but not confirmed by the court. Debtor has until March 31, 1975, to propose an amended Plan of Arrangement to the creditors.

WHEREFORE, your applicants pray that the court take one of the following actions:

1. That the within proceeding under Chapter XI be dismissed and that bankruptcy be proceeded with, or

2. That the court remove its stay of execution on the above-described deed of trust, or

3. That the within proceeding be converted to a proceeding under Chapter X of the Bankruptcy Act.

This the 30th day of December, 1974.

/s/ William E. Butner

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NORTH CAROLINA

(Caption omitted in printing)

ORDER FOR HEARING ON ADJUDICATION

OR DISMISSAL COMBINED WITH NOTICE THEREOF

To the Debtor, its attorney, standby trustee, creditors' committee and other parties in interest:

IT APPEARING TO THIS COURT that a hearing on indemnification under Rule 11-20 having been held on January 22, 1975, upon notice to the Debtor and other parties in interest and an order having been made for the Debtor to file an indemnity bond in the amount of $50,000.00 on or before February 5, 1975;

AND IT FURTHER APPEARING TO THIS COURT that the Debtor has failed to file the bond timely and no extension of time having been requested or granted;

IT IS THEREFORE ORDERED AND NOTICE IS HEREBY GIVEN THAT a hearing under Rule 11-42(b) will be held on Friday, February 14, 1975, at 10:00 a.m. in

Room 238, Main Post Office Building and Court House, Charlotte, North Carolina, for the purpose of considering whether or not this Debtor shall be adjudged a bankrupt or this proceeding dismissed.

IT IS FURTHER ORDERED that notice of less than 10 days be given to the Debtor and other parties in interest.

Dated at Charlotte, North Carolina, this the 10th day of February, 1975.

/s/ Joseph R. Cruciani

U. S. Bankruptcy Judge

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

April, 1975

409a

The undersigned Trustee submits the following report of receipts and disbursements in the month of April, 1975:

Cash Balance		$ 31,047.08
Rental Income Receipts:		
Beltone (March rent)	$ 538.87	
Beltone (April rent)	538.87	

410a

Travel World (March rent)	286.00	
Superior Continental (April rent)	3,276.04	
Superior Continental (April rent)	5,540.62	
Superior Continental (April rent)	4,750.00	
C.I.T. Financial Services (April rent)	487.50	
Iron Gate Restaurant (April rent)	652.44	
Metelpel (March rent)	1,015.62	
Metelpel (April rent)	1,015.62	
James M. Gaither, Jr., Atty. for Bankrupt	1,473.76	
North Carolina National Bank - Refund	6.00	19,581.34
Total Cash		$ 50,628.42

Cash Disbursements:

U. S. Postmaster - Post Office box rent	2.70	
Register of Deeds - Recording Order Approving Bond	2.00	
City of Hickory - Utility bill under lease	6.53	
City of Hickory - Utility bill under lease	6.53	
Duke Power Company - Utility bill under lease	127.28	
Duke Power Company - Utility bill under lease	88.22	
City of Hickory - Utility bill under lease	16.00	
Central Telephone Co. - Utility bill under lease	6.00	
Fassland Enterprises, Inc. - Repair heating and air conditioning	204.83	
		460.09

411a

Balance on Hand $ 50,168.33

*Rental payment for the month of April has not been received from Travel World.

*Of the Balance on Hand, $50,000.00 is deposited in a Passbook Savings Account at North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of April, 1975, in the above-referenced estate.

412a

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory, NC 28601

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

May, 1975

The undersigned Trustee submits the following report of receipts and disbursements in the month of May, 1975:

Cash Balance		$ 50,168.33
Rental Income Receipts:		
Beltone (May rent)	$ 538.87	
Superior Continental (May rent)	3,276.04	

Superior Continental (May rent)	5,540.62	
Superior Continental (May rent)	4,750.00	
C.I.T. Financial Services (May rent)	487.50	
Iron Gate Restaurant (May rent)	652.44	
Metelpel (May rent)	1,015.62	
Capitol Credit (1/2 April rent & May rent)	525.00	
Frelon Broome Insurance (May rent)	350.00	$ 17,136.09
Total Cash		$ 67,304.42

415a

Cash Disbursements:

Advanced Court Reporters, Inc. - Appearance fee - 4/16/75	$ 20.00	
City of Hickory - Utility bill under lease	16.00	

416a

City of Hickory - Utility bill under lease	6.53	
City of Hickory - Utility bill under lease	6.53	
Central Telephone Co. - Utility bill under lease	6.00	
Duke Power Co. - Utility bill under lease	54.49	
Duke Power Co. - Utility bill under lease	55.21	
Duke Power Co. - Utility bill under lease	58.73	
Frelon Broome - Repair to door	1.25	
City of Hickory - Utility bill under lease	13.06	$ 237.80
Balance on hand		$ 67,066.62

*Rental payments for the month of April and May have not been received from Travel World.

*Of the Balance on Hand, $66,000.00 is deposited in a Passbook Savings Account at

North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of May, 1975, in the above-referenced estate.

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory, NC 28601

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

Bankruptcy No. ST-B-73-6

IN RE: Golden Enterprises, Inc.

FIRST-CITIZENS BANK AND TRUST CO., PLAINTIFF,

VS: JOE N. CAGLE, Trustee in Bankruptcy for

GOLDEN ENTERPRISES, INC., DEFENDANT.

JUDGMENT (By Consent)

THIS CAUSE coming on to be heard before the Honorable Joseph R. Cruciani, U. S. Bankruptcy Judge, in Charlotte, North Carolina, upon the Plaintiff's Complaint seeking to recover property from the Defendant, as appears more fully from the Plaintiff's Complaint and Prayer for Relief filed in this action, and the Plaintiff and the Defendant having agreed upon a basis for the Judgment of matters alleged in the Complaint and the entry of a Judgment in this action, and after due deliberation being had thereon, now on motion of

Counsel for the Plaintiff, it is

ORDER, ADJUDGED AND DECREED that final Judgment in favor of the Plaintiff and against the Defendant is hereby granted and ordered as the Judgment in this action as follows:

That the three (3) lots shown and described on Exhibit "B" attached to the Plaintiff's Complaint in this action be released and discharged from the Bankruptcy Proceeding No. ST-B-73-6 and that the Plaintiff be allowed to pursue the remedies available to it under the laws of the State of North Carolina for default in payment of a note and deed of trust.

This the 4th day of June, 1975.

/s/ Joseph R. Cruciani

U. S. Bankruptcy Judge

/s/ Joe N. Cagle

Trustee in Bankruptcy for Golden

Enterprises, Inc.

P. O. Box 2050

Hickory, North Carolina 28601

Telephone: 704-322-2207

/s/ Charles R. Young

Attorney for Plaintiff

P. O. Drawer 2428

Hickory, North Carolina 28601

Telephone: 704-322-4663

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., Bankrupt, Plaintiff, vs. SHELBY SAVINGS & LOAN ASSOCIATION and JOSEPH C. WHISNANT, as Trustee; THE FIRST NATIONAL BANK OF CATAWBA COUNTY and JAMES M. GAITHER, JR., as Trustee; FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION and LEE DENNIS, as Trustee; W. E. BUTNER, ROBERT L. McKAUGHN, JR., JACK SIPE CONSTRUCTION CO., and J. CARROLL ABERNETHY, JR., as Trustee; EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA; CATAWBA COUNTY TAX COLLECTOR; and CITY OF HICKORY TAX COLLECTOR, Defendants.

COMPLAINT (To Sell Real Estate and Transfer Certain Liens to Proceeds of Sale)

Plaintiff complains of the Defendants as follows:

I.

The Plaintiff is the duly appointed, qualified and acting Trustee in Bankruptcy for Golden Enterprises, Inc., which was adjudged a bankrupt on February 14, 1975.

II.

The Defendants are all parties having a lien or secured interest in and to the real estate of the Plaintiff.

III.

Among the assets belonging to the estate of the said Bankrupt and in the possession of the Plaintiff as Trustee in Bankruptcy is the real estate described, valued, and subject to the liens, as hereinafter set forth:

A. Warehouse and office located at 1516 F Avenue, S. E., Hickory, North Carolina (known as Metelpel Products Building). This real estate is more particularly described in Deed Book 927 at Page 208, in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map 60H--Block 4--Lot 26.

Leased to Metelpel Products, Inc., a division or subsidiary of Superior Continental Corporation--Term 3/24/70 to 3/23/85 at an annual rental of $12,187.50.

This real estate is subject to a first Deed of Trust to James M. Gaither, Jr., in favor of The First National Bank of Catawba County, dated February 19, 1971, in the original amount of $74,000.00, recorded in Deed Book 967 at Page 160, in the Office of the Register of Deeds for Catawba County.

Mercer Simmons, MAI, Appraisal--December 5, 1974--$110,000.00 Reule Investment Company, Appraisal--January 21, 1975--$98,766.09 1975 Catawba County Tax Appraisal--$104,950.00

B. Real estate known as Office Complex or Shopping Center located on Fourth Street Drive, S. W., Hickory, North Carolina. This real estate is more particularly described in Deed Book 986 at Page 421 in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map

4311--Block 10--Lot 36B.

Spaces leased as follows:

(a) CIT Financial Services, Inc.

Square feet--1,500

Term--6/1/72 - 5/31/77

Rent--$437.50 per month

(b) Fassland Enterprises, Inc.

Square feet--2,409

Term--5 year lease

Rent--$652.44 per month

(c) Golden Investment Company, Inc.

Square feet-868

Term--5 year lease

Rent--$325.00 per month

(d) Benny Young and Ardith Young (Beltone)

Term--6/1/73 - 5/31/78

Rent--$538.87 per month

(e) New lease by Trustee to Capitol Credit

Rent--$350.00 per month

(f) New lease by Trustee to Frelon Broome Insurance Agency

Rent--$350.00 per month

This real estate is subject to a first Deed of Trust to Lee Dennis, Trustee in favor of Fidelity Federal Savings and Loan Association, dated August 11, 1972, in the original amount of $200,000.00, recorded in Deed Book 1005 at Page 495, in the Office of the Register of Deeds for Catawba County.

Mercer Simmons, MAI, Appraisal--December 5, 1974--$250,000.00 Reule Investment Company, Appraisal--January 21, 1975--$256,077.93 1975 Catawba County Tax Appraisal--$253,710.00

C. Real estate on Little Street, S. E. (231 Ninth Street Lane, S. E.), Hickory, North Carolina. This real estate is more particularly described in Deed Book 947 at Page 415 in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map 59H--Block 1--Lot 3.

Leased to Continental Systems Supply, a division or subsidiary of Superior Continental Corporation. Term--15 years (1971 - 1986). Annual rent is $39,100.00.

This real estate is subject to a first Deed of Trust to Joseph C. Whisnant, Trustee in favor of Shelby Savings and Loan Association, dated February 11, 1971, in the original amount of $260,000.00, recorded in Deed Book 967 at Page 28, in the Office of the Register of Deeds for Catawba County.

Mercer Simmons, MAI, Appraisal--December 5, 1974--$360,000.00 Reule Investment Company, Appraisal--January 21, 1975--$336,257.87 1975 Catawba County Tax Appraisal--$290,240.00

D. The warehouse facility located at 1120 Tate Boulevard (Eastern Access), Hickory, North Carolina. This real estate is more particularly described in Deed Book 990 at Page 629 in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map 60H--Block 1--Lot 11.

This facility is leased as follows:

Phase I to Superior Continental Corporation

Term--1/1/74 to 12/31/76, 2 year option

Phase II to Superior Continental Corporation

Term--8/1/74 to 8/1/75

Rent--$1.25 per square foot

Phase II to Butner, McKaughn, and Sipe

Term--8/1/75 to 7/31/77

Rent--$.60 per square foot

The major portion of this real estate is subject to a first Deed of Trust to Joseph C. Whisnant, Trustee in favor of Shelby Savings and Loan Association, dated April 2, 1973, in the original amount of $755,000.00, recorded in Deed Book 1020 at Page 660 in the Office of the Register of Deeds for Catawba County.

Mercer Simmons, MAI, Appraisal--December 5, 1974--$943,000.00 Reule Investment Company, Appraisal--January 21, 1975--$799,384.04 1975 Catawba County Tax Appraisal--$599,310.00

IV.

All of the real estate hereinabove described is subject to a Deed of Trust dated June 5, 1974, to J. Carroll Abernethy, Jr., Esquire, Trustee in favor of William E. Butner and Robert L. McKaughn, Jr., and Jack Sipe Construction Co., in the original sum of $360,000.00 filed for record on June 7, 1974, and recorded in Deed Book 1048 at Page 76 in the Office of the Register of Deeds for Catawba County. (See Amendment to Deed of Trust recorded in Deed Book 1051 at Page 184, Catawba County Registry.) NOTE: The Deed of Trust dated March 13, 1973, from Golden Enterprises, Inc., to James M. Gaither, Jr., Esquire, Trustee in favor of William E. Butner and Robert L. McKaughn, Jr., securing the original sum of $250,000.00, recorded in Deed Book 1018 at Page 788, Catawba County Registry, does not appear to be cancelled.

V.

The said Jack Sipe Construction Co., filed a Notice

of Claim of Lien in the Office of the Clerk of Superior Court of Catawba County, North Carolina, on March 14, 1975, claiming a lien on the real estate of the Plaintiff as described in Deed Book 990 at Page 636 and Deed Book 990 at Page 629, Catawba County Registry, for labor and materials furnished between February 28, 1972, and November 15, 1974. On information and belief, part or all of this indebtedness is secured by the second Deed of Trust referred to in the preceding paragraph. On information and belief, a part of the indebtedness was incurred during the period of the Arrangement proceedings. Moreover, the Plaintiff believes that this Notice of Claim of Lien is incorrect in amount, and legally invalid in that the same has not been perfected. Furthermore, the said creditor filed this Notice in violation of Bankruptcy Rules 401 and 601.

VI.

The Employment Security Commission of North

Carolina filed a Lien for the sum of $2,036.24 in the Office of the Clerk of Superior Court for Catawba County, North Carolina, on December 10, 1973, which is docketed in Judgment Book 11 at Page 38.

VII.

On information and belief, ad valorem taxes in the approximate amount of $2,500.00 are due the City of Hickory for the year 1974. On information and belief, all ad valorem taxes due the County of Catawba have been paid through the year 1974. The Catawba County Tax Collector and the City of Hickory Tax Collector have liens against the real estate hereinabove described (within their respective taxing jurisdictions) pursuant to the Statutes of the State of North Carolina, for the current year's taxes, which are not yet due and payable.

VIII.

It is in the best interest of the estate of the Bankrupt that the said real estate be sold at public auction,

free and clear of all liens and encumbrances except the first mortgages and current year ad valorem taxes, and that the rights of all other secured parties be transferred to the proceeds. A public sale of the said real estate in this manner will materially promote the interests of all creditors. Moreover, on information and belief, it is necessary to sell the real estate of the Bankrupt in order to liquidate the assets and provide funds for payment of the expenses of the administration of the Bankruptcy proceedings.

IX.

The time is of the essence in this matter and the Plaintiff believes that the time for any Defendant to file answer herein should be reduced to ten (10) days or less.

WHEREFORE, the Plaintiff demands judgment as follows:

1. That the Defendants be required to serve answer herein within a period of not more than ten (10) days

from the date of service.

2. That the Trustee be authorized to sell the real estate hereinabove described at public auction, free and clear of all liens and encumbrances except the first Deeds of Trust thereon and the current year's ad valorem taxes.

3. That the rights of all other lienholders and secured parties be transferred to the proceeds of said sale for a determination and marshalling by the Court.

4. That the Trustee be authorized to advertise the public sale of the real estate in a newspaper published in Catawba County, North Carolina, and in such other newspapers as he deems fit at least once a week for two successive weeks and to charge the same as a part of the costs of administration.

5. That the public auction of the real estate be made subject to the confirmation of the Court.

6. That the costs of this proceeding, including all costs incidental to the public sale of the real estate,

be charged as a part of the costs of administration.

This the 9th day of June, 1975.

/s/ Joe N. Cagle, Trustee

(Verification omitted in printing)

(Jurat omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

June, 1975

The undersigned Trustee submits the following report of receipts and disbursements in the month of June, 1975:

Cash Balance		$ 67,066.62
Rental Income Receipts:		
Beltone (June rent)	$ 538.87	
Superior Continental (June rent)	3,276.04	

Superior Continental (June rent)	5,540.62	
Superior Continental (June rent)	4,750.00	
C.I.T. Financial Services (June rent)	487.50	
Iron Gate Restaurant (June rent)	652.44	
Metelpel (June rent)	1,015.62	
Travel World (April rent)	325.00	
Frelon Broome Insurance (June rent)	350.00	$ 16,936.09
Total Cash		$ 84,002.71

Cash Disbursements:

City of Hickory - Utility bill under lease	16.00	
City of Hickory - Utility bill under lease	6.53	
City of Hickory - Utility bill under lease	6.53	
Central Telephone Co. - Utility bill under lease	6.00	
Duke Power Co. - Utility bill under lease	85.90	
Duke Power Co. - Utility bill under lease	36.58	
Duke Power Co. - Utility bill under lease	41.60	$ 199.14
Balance on hand		$ 83,803.57

*Rental payments for the month of May and June have not been received from Travel World; rental payment for the month of June has not been received from Capitol Credit.

*Of the Balance on Hand, $82,000.00 is deposited in a Passbook Savings Account at North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of June, 1975, in the above-referenced estate.

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory, NC 28601

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., Plaintiff, vs. SHELBY SAVINGS & LOAN ASSOCIATION, et al., Defendants.

ORDER

THIS CAUSE coming on to be heard and being heard before the undersigned U.S. Bankruptcy Judge upon Complaint of Joe N. Cagle, Trustee, for authorization to sell the real estate of Golden Enterprises, Inc., and after review and consideration of the Complaints, Answers, and other evidence, including arguments of counsel in open court on June 30, 1975, and due deliberation being had thereon, the Court hereby enters its findings and order as follows:

1. That Joe N. Cagle is the duly appointed and now acting Trustee in Bankruptcy for the above-named

Bankrupt.

2. That the Court has jurisdiction of the subject matter and jurisdiction over the parties named herein.

3. That it is in the best interest of the estate of the Bankrupt that the said real estate be sold at public auction, free and clear of all liens and encumbrances, except the first mortgages and current year ad valorem taxes, and that the rights of all other secured parties be transferred to the proceeds. A public sale of the said real estate in this manner will materially promote the interests of all creditors.

4. That it will be in the best interest of the estate of the Bankrupt that the Trustee be authorized to advertise the public sale in a newspaper published in Catawba County, North Carolina, and in any other newspapers as the Trustee in his discretion may decide, and charge the costs thereof to the costs of administration.

THEREFORE, IT IS ORDERED AND DECREED as

follows:

1. That the Trustee be and he is hereby authorized to sell the real estate of the Bankrupt at public auction, free and clear of all liens and encumbrances except the first Deeds of Trust thereon and current year's ad valorem taxes, and that the sale be held on the 28th day of July, 1975, beginning at 10:00 o'clock a. m.

2. That the rights of all other lienholders and secured parties be transferred to the proceeds of said sale for a determination and marshalling by the Court.

3. That the Trustee be and he is hereby authorized to advertise the public sale of the real estate in a newspaper published in Catawba County, North Carolina, and in such other newspapers as he deems fit at least once a week for two successive weeks and to charge the same as a part of the costs of administration.

4. That the public auction of the real estate be made subject to the confirmation of the Court.

5. That the costs of this proceeding, including all

costs incidental to the public sale of the real estate, be charged as a part of the costs of administration.

This the 30th day of June, 1975.

/s/ Joseph R. Cruciani

U. S. Bankruptcy Judge

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA

(Caption omitted in printing)

PROOF OF CLAIM IN BANKRUPTCY

William E. Butner, of No. 27 First Avenue N. E. Street _____ in Hickory, County of Catawba, State of North Carolina Zip Code 28601, says:

1. (a) IF CLAIMANT IS AN INDIVIDUAL, check here x:

That he is the claimant herein.

(1(b), 1(c), 1(d) omitted in printing as not applicable)

2. That the above-named bankrupt (or debtor) was, at the time of the filing of the petition herein, and still is, justly and truly indebted (or liable) to the claimant in the sum of Three Hundred Sixty Thousand dollars

3. That the consideration of this debt (or liability) is as follows: monies loaned

4. That no part of the debt (or liability) has been paid except none

5. That there are no set-offs or counterclaims to the

debt (or liability) except none

6. That claimant does not hold, and has not had or received, any security for the debt (or liability), nor has any person by the claimant's order or knowledge or belief had or received any security for the debt (or liability) for the claimant's use except Note and Deed of Trust dated July 1, 1974, recorded in Book 1051 at page 184, Catawba County Registry. (See Exhibit "A" attached hereto.)

7. (omitted in printing as not applicable)

8. (omitted in printing as not applicable)

9. This claim is filed as an (SECURED) CLAIM.

$ 360,000.00 Total Amount Claimed

Dated at Hickory, North Carolina, thic 1st day of July 19 75

Signed William E. Butner

Name of individual, agent, officer, or partner signing this claim.

NOTE: Failure to complete all necessary parts of this

form may result in disallowance.

PENALTY FOR PRESENTING FRAUDULENT CLAIM - Fine of not more than $5,000 or imprisonment for not more than five years or both - Title 18, U.S.C., Sec. 152.

Exhibit "A"

Mail To: Butner and Gaither, Attorneys at Law;

Post Office Box 2323, Hickory, North Carolina

CORPORATION DEED OF TRUST - Form CDT-402

Printed and for sale by James Williams & Co., Inc.

Yadkinville, N. C.

STATE OF NORTH CAROLINA, CATAWBA County.

THIS DEED OF TRUST, Executed this 1st day of July, 1974, by and among Golden Enterprises, Inc. a corporation organized and existing under the laws of the State of North Carolina, hereinafter called Grantor; J. Carroll Abernethy, Jr., hereinafter called Trustee; and William E. Butner, Robert L. McKaughn, Jr., and Jack Sipe Construction Company hereinafter called Note Holder;

WITNESSETH: That whereas said Grantor has this day executed and delivered to said Note Holder a promissory note in the sum of THREE HUNDRED SIXTY THOUSAND ($360,000.00) Dollars, with interest there-

on from date at the rate of ten per cent per annum, said principal and interest being payable as follows:

On or before fifteen (15) years from the date of execution with interest payable quarterly at the rate of ten (10%) per cent per annum with the payments to be applied first to interest and then to principal.

If any one of said payments or any part thereof be overdue and unpaid for ten (10) days, the holder of the note hereby secured may declare the entire sum due and payable; and with the further right in Grantor to make additional payments thereon or to pay said note in full at any time within penalty for such prepayment.

AND WHEREAS, It has been agreed that the payment of said note shall be secured by the conveyance of the land hereinafter described;

NOW, THEREFORE, in consideration of the premises and for the purpose aforesaid and for one dollar paid

by the Trustee, the receipt of which is hereby acknowledged, said Grantor has bargained and sold and by these presents does bargain, sell and convey unto said Trustee, his heirs, successors, and assigns, premises in Hickory Township, Catawba County, North Carolina, described as follows:

TRACT NO. I:

BEGINNING at an iron stake, the northeast corner of the property owned by Martel Company and running thence with the northern line of said Martel Company North 86° 24' West for 427.69 feet to an iron pin located in the eastern margin of the right of way of Little Street, now State Road No. 1653; thence with the eastern margin of the right of way of Little Street for the following calls and distances: North 1° 02' West for 340.36 feet to an iron stake thence North 1° 38' West for 154.80 feet to an iron stake; thence along a curve, the eastern margin of said road, whose cord is 156.23 feet; cord bearing North 6° 05' West to an iron stake

located in the western margin of a 20-foot road, the old line, said corner being 331 feet South of the center line of "C" Avenue, S. E.; thence with the old line, the western margin of a 20-foot road, South 33° 50' East for 814.83 feet to the point of BEGINNING and containing 3.11 acres, according to a plat of a survey made by Donald S. Miller, Registered Surveyor, of the John S. Little Estate made in December of 1969. The above-described property is conveyed subject to any and all recorded street roadways or utility easements.

TRACT NO. II:

BEGINNING at an iron pin, said pin being the Southwest corner of Tract No. 5 of the Walton C. Yount Estate property as recorded in Plat Book 3, Page 81, Catawba County Registry, and being located North 46° 46' West 150 feet from the center of 3rd Avenue Drive, S. E.; thence from said point of Beginning, North 61° 47' East 416.7 feet to a point in the John S. Little Estate

property line; thence leaving the John S. Little Estate property line and establishing a new line, South 70° 30' East 150.31 feet; thence North 36° 36' East 17.46 feet; thence South 53° 24' East 56.75 feet; thence South 70° 30' East 402.05 feet to a point in Lot No. 3 of the Walton C. Yount Estate property, now owned by Regal Manufacturing Company; thence with the line of Regal Manufacturing Company, South 35° 39' West 392.16 feet to an iron pin in the line of Lot No. 5 of the Young property, the Southwest corner of Tract No. 3 of the Yount property; thence South 69° West 152.93 feet to an iron pin; thence South 58° West 135 feet to an iron pin in the South line of Tract No. 5 of the Walton C. Yount Estate property; thence North 46° 46' West 487 feet to an iron pin in the middle of 3rd Avenue Drive, S. E.; thence continuing the same call 150 feet to the point of BEGINNING. Being Tract No. I and a portion of Tract No. III of the property of Golden Enterprises, Inc., as surveyed by Marion E. Bolch, Registered Surveyor, on May 12, 1972.

TRACT NO. III:

BEGINNING at an iron pin in the southern margin of F Avenue, Southeast, said iron pin being located South 67° 39' East 150.0 feet from 15th Street, Southeast; thence from said beginning point with the southern margin of F Avenue, Southeast, South 67° 39' East 151.0 feet to an old iron pin, C. W. Fox's Northwest corner; thence with Fox's line South 7° 58' West 289.56 feet to an old iron pin, a corner of S. E. Price; thence with Price's line North 51° 55' West 27.9 feet to an old iron pin; thence continuing with Price's line North 68° 29' West 198.3 feet to an old iron pin; thence North 22° 48' East 275.85 feet to the point or place of BEGINNING. The same being all of Lots 12 through 17, inclusive, in Block "B" of the St. Stephens Lutheran Church property as shown on a plat thereof recorded in Plat Book 7 at Page 126, in the Catawba County Public Registry.

TRACT NO. IV:

BEGINNING at an iron stake in the eastern margin of Fourth Street, S. W., immediately adjoining a stone wall of the Ridgeview Cemetery, and running thence with the margin of said street North 18° 06' West 33.47 feet to an iron stake; thence continuing with said margin North 1° 35' West 90.12 feet to an iron stake; thence continuing with said margin North 8° 51' East 175.02 feet to an iron stake, the southwestern corner of the property sold from the City of Hickory to Superior Automobile Insurance Company (occupied by Stephenson Finance Company); thence with Superior southern line North 79° 46' 40" East 148.41 feet to an iron stake in the western line of Elijah Covington (A. H. Field); thence with Covington's western line and the western line of Dr. R. W. Carver, South 24° 46' East 227.63 feet to an iron stake in Carver's line; thence with the line of Ridgeview Cemetery South 65° 52' West 279.82 feet to the point of BEGINNING, containing 1.29 acres, more or less. This description was taken from a sur-

vey by the City of Hickory Engineering Department on September 9, 1966.

TRACT NO. V:

BEGINNING at an iron pin, said pin being the Southwest corner of Tract No. 3 and the Southeast corner of Tract No. 4 of the Walton C. Yount Estate property as shown in Plat Book 3 at Page 81, Catawba County Registry, and running thence from said point of Beginning South 69° West 152.93 feet to an iron pin; thence South 58° West 135 feet to an iron pin in the line of Avery Yount, Tract No. 6 of the plat herein referred to; thence South 46° 46' East 840 feet to an iron pin, the Southeast corner of this tract; thence North 20° 11' East 375 feet to an iron pin, said pin being the Southeast corner of Tract 5 of the Walton C. Yount property; thence with the southern line of Tract No. 3 of the Walton C. Yount property, North 54° 47' West 593 feet to the point of BEGINNING.

TRACT NO. VI:

BEGINNING at an iron pin in the southern margin of the right of way of Tate Boulevard, said pin being located North 61° 47' East 431 feet from the Southwest corner of Tract No. 4 of the Walton C. Yount property, as recorded in Plat Book 3 at Page 81, Catawba County Registry, and running thence from said point of Beginning, South 61° 47' West with the John S. Little Estate property line 250 feet to a point in said line; thence leaving the Little line and establishing a new line that runs with Tract No. IV-A, supra, South 70° 30' East 608 feet, more or less, to a point in the line of Tract No. 3 of the Walton C. Yount property, now owned by Regal Manufacturing Company; thence with the line of Regal Manufacturing Company North 35° 39' East 250 feet to an iron pin; thence North 59° 33' West 70 feet, more or less, to a point; thence with the southern right of way of Tate Boulevard North 79° 17' West 450 feet, more or less, to the point of BEGINNING.

TRACT NO. VII:

BEGINNING at a point in the Eastern margin of 9th Street, N. W., said beginning point being located 65 feet in a Southerly direction from the point of intersection of the Eastern margin of 9th Street, N. W. and the Southern margin of 3rd Avenue, N. W., said beginning point also being located at the point of intersection of the right of way line granted to the North Carolina State Highway Commission in the Eastern margin of 9th Street, N. W., and runs thence from said beginning point with the Eastern margin of 9th Street, N. W. in a Southerly direction 220 feet to a point; thence South 82° 05' East 120 feet to a point in the right of way line of the North Carolina State Highway Commission; thence with said right of way line the following approximate calls and distances: North 38° East 20 feet to a point; North 3° East 35 feet to a point; North 7° West 140 feet to a point; North 55° 15' West 30 feet to a point; North 88° 30' West 40 feet to the BE-

GINNING.

TRACT NO. VIII:

BEGINNING at an iron pin in the southern line of the Luther Huffman property, and which iron pin is South 86° 36' West 41 feet from Huffman's southeast corner of the Dr. David Frye line and runs South 86° 36' West with the southern line of the Huffman property 41 feet to an iron pin; thence the same direction with said line 165 feet to an iron pin, the northeast corner of the 50-ft. drive; thence with the eastern line of said 50-ft. drive, South 3° 15' East 125 feet to an iron pin at the commencement of the northern margin of the circular drive; thence an arc having R-25.0, L-39.27, triangle-90 to an iron pin; thence again with the northern margin of the circular drive North 86° 45' East 30.11 feet, and again South 82° 40' East 34.89 feet to an iron stake, a corner of Lot No. 2; thence with the line of Lot No. 2 North 33° 26' East 195.16 feet to the point of the BEGINNING.

TRACT NO. IX:

BEGINNING at an iron stake in the Western line of the Dr. David Frye property, the Northeast corner of Lot No. 3 of the property hereinafter designated, which Lot No. 3 has been conveyed to R. Carroll Burns, Jr. by Charles L. Hunsucker, Jr., et ux; thence with the Northern line of Lot No. 3, South 65° 52' West 151.41 feet to an iron stake in the Eastern margin of the circular drive; thence with the said margin of the circular drive North 34° 44' West 40.91 feet to an iron pin; thence again with the margin of the said circular drive, North 59° 38' West 40.96 feet to an iron pin, the Southeast corner of Lot No. 1 of the property hereinafter designated; thence with the line of Lot No. 1 North 33° 26' East 195.16 feet to an iron pin in the Southern line of the Luther Huffman property; thence with his line North 86° 36' East 41 feet to an iron pin, Huffman's Southeast corner in the Dr. David Frye line; thence with the Frye line South 17° 03' East 165.0 feet to the

point of BEGINNING.

BEING Lot No. 2 of that subdivision known as Pinewood Circle, Hickory, Catawba County, North Carolina, as surveyed by M. Bolch, June 14, 1966, a plat of which is registered in Book of Plats 13 at page 39 in the Catawba County Registry, to which plat reference is hereby made for a more particular description.

Tracts Nos. II, V and VI are conveyed subject to any and all easements, encumbrances, and rights of way recorded in the Catawba County Registry.

Tract No. VIII is conveyed subject to those certain restrictions recorded in Book 990 at page 39, Catawba County Registry.

Tract No. IX is conveyed subject to those certain restrictions recorded in Book 961 at page 155, Catawba County Registry.

All of the tracts described above are subject to ALL existing mortgages as they appear of record.

The purpose of this deed of trust is to correct an

error in the terms for repayment of that certain deed of trust dated June 5, 1974, and recorded in Book 1048 at page 76 in the Catawba County Registry.

The above land was conveyed to Grantor by _____ ____. See Book No.____, Page____.

TO HAVE AND TO HOLD the above described premises together with all the rights, privileges and appurtenances thereunto belonging unto said Trustee and his heirs, successors and assigns forever upon the terms and conditions and for the uses and purposes following:

FIRST: Grantor shall pay all taxes and other assessments within the time prescribed by law and shall keep the buildings on said premises in a proper state of repair and preservation, and insured against loss by fire and storm in some reliable insurance company having an office in the County of _____ in the amount of $360,000.00, which policies shall be payable to the Note Holder as his interest may appear and be deposited with him, to be applied in case of loss, so far as the same may extend or may be necessary in the payment of said note; and further, Grantor shall keep the property herein conveyed free and clear of any and all en-

cumbrances which by law may have a priority over the lien created by this trust.

And if Grantor shall fail to pay said taxes or assessments, or to maintain said property in a proper state of repair and preservation, or to effect and continue said insurance in force, or shall fail to keep said prop erty free of all encumbrances, the Note Holder shall have the right to pay said taxes or assessments, or to make said repairs or to effect and continue said insurance or to pay off and remove said encumbrances, and any amount so expended by him shall be deemed principal money secured by this trust bearing interest at the rate of ten (10%) per cent per annum, and be due and payable when the next ensuing installment on the note becomes due.

SECOND: If the said Grantor shall well and truly pay in full the indebtedness hereby secured, then the title to the land herein conveyed shall become revested in him free and discharged from the lien of this trust.

THIRD: But if said Grantor shall fail to pay any installment of either principal or interest as the same may hereafter become due, or any amount expended by the Note Holder for insurance or for taxes or for assessments, or to remove any encumbrances as herein provided, then upon any default or breach of the Grantor hereunder for a period of ten (10) days, it shall be lawful for and the duty of the Trustee, upon demand of the Note Holder, or his assigns or other person who may be entitled to the moneys due on said Note, to sell said land at public auction to the highest bidder for cash, after having advertised such sale by posting a notice thereof for thirty days at the Catawba County Courthouse building, located at Newton, North Carolina Catawba County, North Carolina, and by the publication of such notice once a week for four successive weeks in some newspaper published in said County, therein appointing a day, hour and place of sale, and upon such sale to execute to the purchaser a good and

sufficient deed to said land.

And the Trustee, after having retained out of the proceeds of such sale five per cent commission for making such sale, together with the costs of advertising, selling and reporting to the court shall apply the residue, so far as it may extend or may be necessary, to the payment of said note and all interest then accrued and any sums advanced by the Note Holder as herein provided, and shall pay the balance thereafter remaining, if any, to said Grantor, or other party entitled thereto, subject to the approval of the Bankruptcy Court.

If foreclosure is commenced but no sale is actually held, the Trustee shall receive such compensation for his services as may be allowed by order of the Clerk of the Superior Court, not exceeding the compensation for holding the sale as above provided.

FOURTH: It is further stipulated and agreed that any statement of facts or recital by said Trustee in his deed in relation to the non-payment of the money secured to

be paid, the amount due, the advertisement, sale, receipt of the money, and the execution of the deed to the purchaser shall be received as prima facie evidence of such fact.

FIFTH: The irrevocable power to appoint a substitute trustee or trustees is hereby expressly granted to the Note Holder, his successors or assigns, to be exercised at any time hereafter, without notice and without specifying any reason therefor, by filing for record in the office where this instrument is recorded an instrument of appointment. The Grantor, for itself, his or its heirs, executors, administrators, successors and assigns, and the Trustee herein named, or that may be substituted hereunder, expressly waive notice of the exercise of this power, and any necessity for making oath or giving bond by any trustee, as well as any requirement for application to any court for the removal, appointment or substitution of any trustee hereunder; and the Note Holder, his successors or assigns, may

elect to appoint a substitute trustee in accordance with the laws of North Carolina.

SIXTH: That when any reference is herein made to the Grantor or to the Trustee or to the Note Holder, or to the note hereby secured, the singular shall include the plural and the masculine shall include the feminine or the neuter.

THE GRANTOR DOTH HERE COVENANT AND AGREE that he is the owner in fee simple of the land herein conveyed, and has the right to convey the same; that the same is free and clear of all encumbrances except as herein stated; that he will forever warrant and defend the title herein conveyed against the lawful claims of all persons whomsoever; and that he will execute such further assurances as may be necessary or proper to carry out the true intent and purpose of this trust.

IN TESTIMONY WHEREOF, said Grantor has caused these presents to be signed in its corporate name by

its President, and its corporate seal to be hereunto affixed, and attested by its Secretary, by order of its Board of Directors duly made, the day and year first above written.

GOLDEN ENTERPRISES, INC.

By: /s/ Thomas D. Golden

President

Attest: /s/ Patricia G. Strong

Secretary

(Acknowledgment omitted in printing)

(Recorded in the office of the Register of Deeds of Catawba County at 8 a.m. on the 22nd day of July, 1974, in Book 1051, Page 184.)

(Certificate of Registration omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

July, 1975

The undersigned Trustee submits the following report of receipts and disbursements in the month of July, 1975:

Cash Balance	$ 83,803.57
Rental Income Receipts:	
Beltone (July rent)	$ 538.87
Superior Continental (July rent)	3,276.04

Superior Continental (July rent)	5,540.62		
Superior Continental (July rent)	4,750.00		
C.I.T. Financial Services (July rent)	487.50		
Iron Gate Restaurant (July rent)	652.44		
Metelpel (July rent)	1,015.62		
Travel World (May rent)	325.00		
Frelon Broome Insurance (July rent)	350.00		
Capitol Credit (June rent)	350.00		
Capitol Credit (July rent)	350.00	$	17,636.09
Total Cash		$	101,439.66

Cash Disbursements:

Postmaster - P. O. Box rent	$ 10.00		
Cagle & Houck - Reimbursement for Trustee Bond	200.00		
City of Hickory - Utility bill under lease	6.53		
Split Second Printing - Printing Notice to Creditors	13.42		
City of Hickory - Utility bill under lease	16.00		
City of Hickory - Utility bill under lease	6.53		
City of Hickory - Utility bill under lease	6.53		
Central Telephone Co. - Utility bill under lease	6.00		
Duke Power Co. - Utility bill under lease	105.53		
Duke Power Co. - Utility bill under lease	58.82		
Duke Power Co. - Utility bill under lease	59.25		
City of Hickory - Utility bill under lease	6.53	$	495.14

Balance on Hand	$	100,944.52

*Rental payments for the month of June and July have not been received from Travel World.

*Of the Balance on Hand, $100,000.00 is deposited in a Passbook Savings Account at North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of July, 1975, in the above-references estate.

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

COUNSEL:

469a

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory, NC 28601

470a

PROOF OF CLAIM FOR INTERNAL REVENUE TAXES

BANKRUPTCY ACT PROCEEDINGS

IN THE DISTRICT COURT

FOR THE WESTERN DISTRICT OF N. C.

(Caption omitted in printing)

CLAIM OF THE UNITED STATES

FOR INTERNAL REVENUE TAXES

AMENDMENT NO. 2

TAXPAYER'S IDENTIFYING NUMBER:

Social Security No. _____

Employer Identification No. 56-0929458

The undersigned officer of the Internal Revenue Service, a duly authorized agent of the United States in this behalf, declares that:

1. The debtor is justly and truly indebted to the United States in the sum of $50,388.28.

2. The said debt is for taxes due under the internal revenue laws of the United States as follows:

A. LIEN CLAIMS (Notice of Federal Tax Lien filed prior to Bankruptcy Petition date)

KIND OF TAX	PERIOD	AMOUNT DUE	REMARKS	DATE NOTICE OF TAX LIEN FILED	DATE TAX ASSESSED
WT-FICA	3-31-73	$39,390.90		5-21-73	5-21-73
Interest to 2/14/75		4,232.56			
FUTA	12-31-72	724.48		6-4-73	6-4-73
Interest to 2/14/75		255.08			
FUTA	12-31-73	5,445.80		6-26-73	6-26-73
Interest to 2/14/75		339.46			
		Total $50,388.28			

B. PRIORITY CLAIMS

KIND OF TAX	PERIOD
WT-FICA	3-31-73
Interest to 2/14/75	
FUTA	12-31-72
Interest to 2/14/75	
FUTA	12-31-73
Interest to 2/14/75	

C. UNSECURED CLAIMS

KIND OF TAX	PERIOD	AMOUNT DUE	REMARKS	DATE TAX ASSESSED

NOTE: This amends and replaces Proof of Claim filed February 4, 1974 as an Arrangement case, and reflects a decrease in tax liability due to credits being applied to the 12-31-72, 940 Account. Interest has been refigured and increased to the date taxpayer adjudicated to liquidating.

3. No part of said debt has been paid and it is now due and payable at the Office of the District Director of Internal Revenue;

4. There are no set-offs or counterclaims to said debt;

5. Except for the tax liens protected by notices of lien filed on the date above, the United States does not hold, to my knowledge or belief, any security or securities for said debt;

6. No note or other negotiable instrument has been received for said debt or any part thereof, nor has any judgment been rendered with respect to said debt; and

7. Said debt is to be paid to the extent provided by law. See sections 17, 64, 77e, 199, 337(2), 455, and 659 of the Bankruptcy Act (11 U.S.C. 35, 104, 205(c), 599, 737(2), 855, and 1059).

/s/ Albert Bunton

July 29, 1975

Chief, Special Procedures Staff

Post Office Box 20541

Greensboro, North Carolina 27420

UNITED STATES DISTRICT COURT-WESTERN DISTRICT OF NORTH CAROLINA-STATESVILLE DIVISION

(Caption omitted in printing)

APPLICATION FOR PROFESSIONAL SERVICES RENDERED AND EXPENSES INCURRED AS ATTORNEY FOR CREDITORS COMMITTEE DURING PENDENCY OF SUPERSEDED CHAPTER XI PROCEEDING

TO: THE HONORABLE JOSEPH R. CRUCIANI, BANKRUPTCY JUDGE

The application of ARTHUR I. WINARD respectfully represents:

1. That he is an attorney at law, admitted to practice in the highest courts of the State of New York, the United States District Courts for the Southern and Eastern Districts of New York, the Second and Fifth Circuit Courts of Appeal, the United States Supreme Court, and other Federal Courts, and submits this affidavit for an allowance for compensation for professional services rendered by applicant, and for reimbursement of actual and necessary costs and expenses incurred by applicant as one of the attorneys for the Creditors Committee during the pendency of the now superseded Chapter XI proceeding with respect to the above-named debtor.

2. This application covers services rendered solely by the undersigned from May 29, 1973 to the date of the signing of the Order adjudicating the above-named debtor a Bankrupt, and terminating the Chapter XI proceedings on February 14, 1975.

3. The above-named debtor filed a petition under Chapter XI of the Bankruptcy Act on May 4, 1973. On May 22, 1973, your applicant was advised of said filing by George Solow of J. Solow & Son, Ltd., a creditor of the debtor. On June 12, 1973, the official Creditors Committee was designated by this Court, and at that time the undersigned, Joseph H. Frier, Jr. of the firm of Goldman, Frier and Altesman,

Esqs., and J. Carroll Abernathy, Jr., Esq., were designated as attorneys for the Creditors Committee.

4. During the period of time in question, your applicant, as more specifically detailed in the schedules annexed hereto, worked with the debtor and its counsel, James M. Gaither, Jr., Esq. in every way requested by them and on behalf of the Creditors Committee, in an effort to resolve the debtor's financial problems and to formulate a plan of arrangement which would be in the best interest of the unsecured creditors as well as the debtor. In this regard, numerous conversations were had by your applicant with James M. Gaither, Jr., Esq., as counsel for the debtor, as well as with Thomas Golden, President of the above-named debtor, in an effort to ascertain the debtor's true financial picture, to determine the value of its assets and to determine which of debtor's assets might be sold in order to properly fund a plan of arrangement.

As set forth in the schedules submitted herewith, a number of conferences were held at applicant's office with Thomas Golden, as President of the debtor corporation, James H. Gaither, Jr., Esq., Joseph H. Frier, Jr., Esq. and Mr. George Solow, during which conferences debtor's complete financial status was reviewed and analyzed, proposals and recommendations were discussed and made with respect to additional financing of debtor, discussions were had with respect to restructuring the existing mortgages on debtor's real estate, and finally, discussions were had with respect to possible sale of certain of debtor's real estate in order to enable debtor to submit a plan of arrangement.

The services rendered by your applicant as attorney for the Creditors Committee, along with Messrs. Frier and Abernathy, resulted in a Plan of Arrangement actually being filed with this Court by the debtor and steps were taken in order to obtain the ratification of

said Plan. Thereafter, however, the debtor ascertained that it would be unable to obtain the necessary financing required if the said Plan of Arrangement was to be adopted, and debtor's counsel was required therefore to withdraw said Plan as shown in the schedule submitted herewith. Your applicant then fully cooperated with the debtor and its counsel, in their efforts to formulate an Amended Plan of Arrangement and as a result of your applicant's efforts, along with the efforts of Joseph H. Frier, Jr., a proposed Amended Plan of Arrangement was prepared by debtor's counsel. Once again, however, debtor was unable to obtain the financing necessary to put said Plan into effect.

Efforts by debtor's counsel, with whom your applicant fully cooperated, to restructure the mortgages on debtor's real estate, ultimately proved of no avail and after analysis of the values of debtor's real estate it was found that the equity in said real estate, over

and above the mortgages thereon, was insufficient to allow for the filing of the proposed Amended Plan of Arrangement. As a result of debtor's inability to submit a Plan of Arrangemen, this Court, on January 22, 1975, ordered the debtor to file an indemnity bond in the amount of $50,000 on or before February 5, 1975. On February 14, 1975, this Court ordered that bankruptcy in this matter be proceeded with based on the debtor having failed to file said bond.

5. In addition to the above services, your applicant, as one of the attorneys for the Creditors Committee, worked with the debtor and its counsel with respect to debtor's inventory which had been shipped from Los Angeles to debtor's premises in North Carolina. These services were instituted in view of the fact that Commercial Credit Corporation, a secured creditor, had a lien against debtor's inventory in North Carolina. Applicant advised debtor and its counsel that the lien of Commercial Credit Corporation

did not cover that part of debtor's inventory which had been transferred to North Carolina from Los Angeles. Thereafter, your applicant was advised that the Los Angeles inventory had initially been commingled with debtor's then existing inventory in North Carolina and your applicant further worked with the debtor and its counsel in an effort to segregate the Los Angeles inventory from the North Carolina inventory. Your applicant further cooperated both with debtor and its counsel and with Joseph H. Frier, Jr., Esq. in an effort to reach a settlement with Commercial Credit Corporation and other of debtor's secured creditors to enable creditor to submit a Plan of Arrangement.

6. Professional services for which compensation is requested by your applicant were necessarily performed as one of the attorneys for the Creditors Committee during the Chapter XI proceedings hearing, which said proceedings terminated by the signing of

the aforesaid Adjudication Order on February 14, 1975.

7. Annexed hereto and made a part hereof by specific reference are schedules taken from the time records of your applicant which are broken down into four categories: conferences, telephone calls, correspondence received and correspondence sent. The number of actual hours diaried by your applicant in connection with professional services rendered as one of the attorneys for the Creditors Committee during the superseded proceedings under Chapter XI of the Bankruptcy Act total 108 3/4 hours, as fully detailed in the schedules which are annexed hereto.

8. Your applicant has been a practicing attorney for thirty-one years. Applicant is co-author of New York Surrogate Practice, editor of Landmark Papers on Estate Planning, Wills, Estates and Trusts (3 volumes), Anti-Trust Law and Techniques (3 volumes), Organizing Corporate and Business Enterprises, New York Law of Mechanics' Liens, A Guide to Motion

Practice, New York State Rent Control, Lawyers' Accounting Handbook, and Rent Control -- Federal, State and Municipal, and former managing editor of The Practicing Law Institute. In addition, your applicant was one of the founders of the New York Bankruptcy Bar Association and a contributor to various legal periodicals. Applicant's gross fees received for professional services rendered in the practice of law for the year 1974 were $178,568.65, with his adjusted gross income being $106,662.44.

Applicant's normal charge for professional services rendered by him is at the rate of $150 per hour. On this basis, a reasonable attorney's fees to be paid to your applicant for services rendered herein during the now superseded proceedings under Chapter XI of the Bankruptcy Act is $16,312.

9. In connection with professional services rendered by applicant during the Chapter XI proceedings herein, applicant expended $46.76 as and for long

distance telephone calls to Thomas Golden, President of the debtor herein, James H. Gaither, Jr., Esq. and J. Carroll Abernathy, Esq., and in connection with the photostating of various documents received by this office. It is respectfully submitted that applicant is entitled to be reimbursed for said expenses.

Applicant, therefore, respectfully requests the sum of $16,312 for professional services rendered, plus $46.76 which represents actual incurred expenses, as aforesaid.

Dated: New York, New York

July 28, 1975

/s/ Arthur I. Winard, Applicant

Office & P. O. Address

475 Fifth Avenue

New York, N. Y. 10017

(212) LE 2-5800

STATE OF NEW YORK :

COUNTY OF NEW YORK : SS.:

ARTHUR I. WINARD, being duly sworn, deposes and says:

That he is the Applicant who has prepared and signed the foregoing Application for Professional Services Rendered and Expenses Incurred as Attorney for the Creditors Committee during pendency of superseded Chapter XI proceedings; that no agreement has been made, directly or indirectly, and no agreement or understanding exists for the division of the fee sought herein with the debtor, the attorney for the debtor, or any other attorney or party.

/s/ Arthur I. Winard

(Jurat omitted in printing)

GOLDEN ENTERPRISES, INC.-

Schedule of Conferences and Meetings

Date	With Whom and Subject
6/7/73	Meeting of unsecured creditors at this office with Thomas Golden representing debtor. Discussions held as to debtor's financial position, with balance sheets, profit and loss statements, and real estate holdings being reviewed 2 3/4 hrs.
6/14/73	Conference with George Solow, Joseph H. Frier, Jr., Esq. and Albert Altesman, Esq. Discussed debtor's financial situation and actions taken at first meeting of creditors held 6/12/73 1 1/2 hrs.
10/9/73	Meeting of Creditors Committee held at this office with Arthur I. Winard and Joseph H. Frier, Jr., Esq., as attorneys for Committee, and Thomas Golden and James Gaither, Esq. representing debtor. Discussed proposed

Plan of Arrangement; shipment of debtor's inventory from Los Angeles to North Carolina, debtor's cash flow and construction of debtor's proposed new building; discussed monies required to fund Plan. 2 1/2 hrs.

10/5/73 Conference with Frier at which proposed Plan of Arrangement was reviewed and changes and amendments thereto discussed 1 hr.

1/24/74 Conference with George Solow, Chairman of Creditors Committee and Thomas Golden, on behalf of debtor. Discussed lien of Commercial Credit against inventory and possible litigation against Commercial Credit; discussed debtor's cash flow, real estate holdings, present financial picture and possible steps to fund Plan 1 1/2 hrs.

3/29/74 Conference with George Solow, Chairman of Creditors Committee; discussions dealt with debtor's current financial position, monies

needed to fund Plan of Arrangement, offers made to purchase debtor's inventory and liens of Commercial Credit, Marine Midland and U.S. Telephone conversations as to these points were had with Frier and Golden during meeting 2 hrs.

5/15/74 Conference with Frier to discuss debtor's current financial status, status of Plan of Arrangement, means of funding Plan 1 hr.

6/12/74 Conference, this office, with George Solow, Chairman of Creditors Committee, Frier, Gaither, Thomas Golden and Joseph Golden. Discussed financial position of debtor, sale of debtor's real estate--Metelpel Building and Shopping Center--proposed Amended Plan of Arrangement and funding thereof 2 hrs.

10/3/74 Conference, this office, with George Solow, Thomas Golden, James Gaither, Esq. and Joseph H. Frier, Jr., Esq. Discussed pro-

posed Amended Plan of Arrangement and agreement reached to have debtor attempt sale of its shopping center and Metelpel Building to fund Plan of Arrangement 2 hrs.

Total number of hours devoted to conferences and meetings in connection with rendering services as co-counsel for Creditors Committee while debtor was in Chapter XI 16 1/4 hrs.

GOLDEN ENTERPRISES, INC. - TELEPHONE CALLS

Date	Time	With Whom	Subject
6/4/73	12:40 p.m.	Thomas Golden	Discussed creditors meeting in N.Y. for coming week
6/5/73	2:55 p.m.	Joseph H. Frier, Jr., Esq.	Discussed chapter XI filed by Golden Enterprises, Inc. and creditors reported by respective officer
6/6/73	10:10 a.m.	Thomas Golden	Advised can be in N.Y. for meeting with creditors on 6/7
	12:30 p.m.	Famas, Inc.	Told Creditors Meeting 6/7 - 10:30 a.m.
	12:35 p.m.	Nancsi Mfg. Corp.	Told Creditors Meeting 6/7 - 10:30 a.m.

	12:40 p.m.	Joseph H. Frier, Jr.	Told Creditors Meeting 6/7 - 10:30 a.m.
6/8/73	11:05 a.m.	Joseph H. Frier, Jr., Esq.	Discussed designation of J. Carroll Abernathy, Esq. as co-counsel for creditors Committee
6/12/73	12:00 Noon	Joseph H. Frier, Jr., Esq.	Albert Altesman, Esq. attending 1st Meeting of Creditors and will advise when he speaks to Altesman
	4:55 p.m.	Thomas Golden	Discussed events of 1st Meeting of Creditors and of his conversations with Altesman
	5:05 p.m.	George Solow	Advised of conversation with Golden

	5:10 p.m.	Joseph H. Frier, Jr. Esq.	Advised of conversation with Golden and Solow
6/13/73	11:15 a.m.	Joseph H. Frier, Jr. Esq.	Agreed to meeting with Solow this office on 6/14/74
6/19/73	1:10 p.m.	Albert Altesman, Esq.	He advised of conversation with James Gaither, Esq. concerning debtor's financial position and shipment of California inventory to North Carolina
6/20/73	11:10	Albert Altesman, Esq.	Asked for list of creditors; discussed possible refinancing of debtor

6/22/73 10:25 a.m.	Albert Altesman, Esq.	Requested he check with Gaither as to debtor refinancing, discussed debtor's financial position
6/25/73 9:50 a.m.	Joseph H. Frier, Jr. Esq.	Discussed conversations between Altesman & Abernathy concerning Hearing 6/27/73
6/25/73 4:20 p.m.	George Solow	Discussed conversation between Solow and Golden concerning debtor's refinancing
4:50 p.m.	James H. Gaither, Esq.	Discussed debtor's situation as to refinancing, cash flow and completion of building

9:00 p.m.	Thomas Golden	Full discussion of debtor's financial situation, per discussion with Gaither, discussed possible Chapter X and meeting in N.Y. with himself and Gaither
6/26/73 9:05 a.m.	George Solow	Advised of conversations with Gaither and Golden on 6/25/73
1:15 p.m.	George Solow	Advised of conversation he had with Golden concerning debtor's application to ship inventory from California to North Carolina and Comm. Credit Lien

	1:30 p.m.	Joseph H. Frier, Jr. Esq.	Advised of conversation with Solor (1:15 p.m.)
	6/27/73	George Solow	Advised of Golden call advising Solow appointed Chairman of Creditors Committee, this date, shipment of inventory from California approved
495a	6/28/73 10:30	Joseph H. Frier, Jr. Esq.	Advised of conversation with Solow as to Hearing held 6/27/73 and arranged conference call with Gaither
	3:50 p.m.	Albert Altesman, Esq. and Gaither (conference call	Discussed debtor's present financial situation, Commercial Credit lien on inventory vis-a-vis California inventory, completion of building proposals as to Plan of Arrangement
	7/2/73 9:50 a.m.	Albert Altesman, Esq.	He advised of letter from Abernathy and submission of order designating Creditors Committee
496a	7/16/73 1:50 p.m.	George Solow	Advised of letter from Abernathy as to debtor's financial position
	7/7/73 1:00 p.m.	George Solow	Discussed call to Solow from Gaither as to possible meeting of creditors in New York
	7/18/73 10:35 a.m.	Joseph H. Frier, Jr., Esq.	Advised of Solow conversation (7/17) and discussed status of Chapter XI

			and steps to have debtor submit Plan
7/19/73	1:00 p.m.	Joseph H. Frier, Jr., Esq.	Discussed debtor's request for meeting and decided meeting would not be called in New York at present
	1:25 p.m.	Thomas Golden	Discussed debtor's current financial position
7/20/73	12:45 p.m.	Joseph H. Frier, Jr., Esq.	Advised he spoke to Gaither who said Plan would be submitted in about 5 days
7/23/73	2:50 p.m.	Joseph H. Frier, Jr., Esq.	Agreed that would not meet with debtor until proposed Plan submitted
	3:00 p.m.	George Solow	Told of conversation with Frier as to

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			no meeting with debtor until proposed Plan received
7/31/73	10:25 a.m.	Joseph H. Frier, Jr., Esq.	Advised of meeting with Golden, Gaither and Solow at his office 7/27; Credit Committee meeting to be held this office 8/9; discussed proposals as to Plan to be submitted by debtor
9/10/73	9:55 a.m.	Joseph H. Frier, Jr., Esq.	Advised of conversation with Gaither as to submission of proposed Plan and Funding of same
9/13/73	1:00 p.m.	Joseph H. Frier, Jr., Esq.	Advised of conversation he had with Solow concerning letter to be sent to

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		creditors
10/3/73 10:40	Joseph H. Frier, Jr., Esq.	Discussed Plan and consents to confirmation received to date; advised Hearing scheduled for 10/10 and agreed to meet to discuss amendments to Plan
10/10/73 10:20 a.m.	Joseph H. Frier, Jr., Esq.	Discussed Amendment to Plan of Arrangement
10/23/73 11:50 a.m.	Joseph H. Frier, Jr., Esq.	Stated he would advise as to new date for confirmation Hearing
11/1/73 11:50 a.m.	Joseph H. Frier, Jr., Esq.	Advised Plan accepted; discussed preparation of petition for Allowance

		by 11/15/73
11/12/73 1:05 p.m.	Joseph H. Frier, Jr., Esq.	Discussed proposed agreement with Gaither re financing properties
11/26/73 2:50 p.m.	Joseph H. Frier, Jr., Esq.	Advised no new developments as to Golden Enterprises
12/24/73 11:00 a.m.	Joseph H. Frier, Jr., Esq.	Advised he has copy of Amended Plan but has withdrawn financing with respect to completion of new building
1/2/74 2:55 p.m.	Joseph H. Frier, Jr., Esq.	Advised of letter he is sending to Gaither concerning debtor's attempts to obtain new financing
1/23/74 10:50 a.m.	George Solow	He advised Golden wants to meet in

			N. Y. to discuss problem with Commercial Credit and their security interest
	5:25 a.m.	George Solow	Advised Golden here 1/24 in a.m.
1/24/74	10:10 a.m.	Joseph H. Frier, Jr., Esq.	Advised of meeting with Golden and Solow concerning Commercial Credit lien and debtor inventory
2/4/74	3:35 a.m.	Joseph H. Frier, Jr., Esq.	He advised of conversation with Gaither as to 3rd party takeover of 2nd mortgage and problems with Commercial Credit
2/6/74	11:40 a.m.	Joseph H. Frier, Jr., Esq.	Discussed 3rd party takeover of 2nd mortgage; advised Commercial Credit wants to close debtor's stores
	3:20 p.m.	Thomas Golden	Would agree to having liquidators come down to look over property; discussed Commercial Credit lien and he advised California inventory situation not resolved
	3:30 p.m.	Joseph H. Frier, Jr., Esq.	Advised him of conversation with Golden
2/7/74	10:30 a.m.	Gaither, Golden, Frier, Abernathy and Solow (Conference Call)	Discussed liens of Commercial Credit, Marine Midland and IDS; agreed to have inventory appraised, discussed

501a

502a

			additional monies - 3rd mortgage - to finance completion of building discussed commingling of California inventory and attempts to obtain advances from Commercial Credit
	11:05 a.m.	Joseph H. Frier, Jr., Esq.	Discussed matters reviewed in Conference Call and efforts to prevent a bankruptcy
	2/25/74 1:10 p.m.	George Solow	I was advised Golden was granted additional 60 days to keep inventory; offer made by Charles Camp to take over inventory for $250,000; Gaither

503a

			is to prepare new documentation for 2nd and 3rd mortgages
	1:15 p.m.	Joseph H. Frier, Jr., Esq.	Told of conversation with Solow. He will check with Abernathy as to present status
	3/18/74 9:00 a.m.	George Solow	Solow advised debtor had been granted 90 day extension to permit inspection of inventory discussed offers which Solow believes made on inventory; Solow said Golden understood inventory to be sold and debtor to retain real estate

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3/19/74 1:05 p.m.	Joseph H. Frier, Jr., Esq.	Advised Frier of offers to purchase inventory; Frier attempting to negotiate settlement figure with Commercial Credit and will advise so that matter can be discussed with Creditors Committee
3/22/74 10:00 a.m.	Joseph H. Frier, Jr., Esq.	Still attempting to work out arrangement with Commercial Credit as well as with respect to offers on inventory
3/26/74 1:35 p.m.	George Solow	Set up appointment to discuss status of Golden Enterprises
3/28/74 4:40 p.m.	George Solow	Advised he was called by Golden and asked to have disbursement order signed. Said would discuss with him at conference tomorrow.

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3/29/74 12:30 p.m.	Joseph H. Frier, Jr., Esq.	Advised he was awaiting word from Commercial Credit concerning settlement and would advise
12:40 p.m.	Thomas Golden	With Solow present, discussed Commercial Credit situation; Golden stated he would sell his stock in corporation if needed; discussed monies needed to fund Plan
2:25 p.m.	Joseph H. Frier, Jr.,	He advised as to monies owed on lien

			of Commercial Credit, Marine Midland and H.S. and we discussed monies - $350,000 needed to fund Plan
4/1/74	11:45 a.m.	Thomas Golden	Advised he can get an offer on one of buildings to permit funding of Plan and allow interest 5% payout to unsecured creditor. Told Golden to get offer in writing
	11:50 a.m.	James H. Gaither, Esq.	Told of conversation with Golden; he said no offer yet; he advised as to conversation he had concerning sale of inventory with Gerden Bros.; he

507a

			requested return of signed documents pertaining to Shelby S & L Assoc. loan to complete building
	1:00 p.m.	Joseph H. Frier, Jr., Esq.	Advised of his conversations with Commercial Credit representatives trying to work out settlement; agreed not to make any arrangements as to debtor's real estate pending word from Commercial Credit
	2:15 p.m.	David Hutto III (Controller-Golden Ent.)	Required he forward written details of value of California inventory brought to North Carolina; value of North

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			Carolina inventory at that time; present inventory value so we could attempt to come up with value of remaining California inventory not subject to Commercial Credit lien
4/2/74	2:00 p.m.	Joseph H. Frier, Jr., Esq.	Still waiting word from Commercial Credit in settlement; Silverman will be in North Carolina 4/3/74 to see if he can come up with offer on inventory
4/8/74	10:00 a.m.	George Solow	Advised Gaither called him asking that Distribution Order be signed and returned

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	10:30 a.m.	Albert Altesman, Esq.	Told of Solow call. Frier away and I said I'd write Gaither concerning Distribution Order
	2:05 p.m.	George Solow	Advised Gaither had called again. Told him I would contact Gaither concerning Distribution Order
4/10/74	11:55 a.m.	George Solow	Advised of call from Gaither. Told him to tell Gaither meeting in N.Y. could be arranged once we had word from Commercial Credit as to settlement from Silverman as to interest in inventory

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	4:10 p.m.	Thomas Golden	Advised debtor could sell one building to fund Plan if needed.
	4/12/74 9:25 a.m.	George Solow	Gaither advised Solow he will be in New York on 4/16 to discuss current situation and preparation of Amended Plan
511a	4/15/74 11:40 a.m.	Joseph H. Frier, Jr., Esq.	Advised Silverman stated he was getting no cooperation from Gaither with respect to seeing debtor's inventory
	11:45 a.m.	George Solow	Advised him of conversation with Frier and stated we would discuss with Gaither when he was in New York

	3:25 p.m.	Thomas Golden	He advised Gaither not coming to New York on 4/16; told him we would put through conference call in morning with Abernathy, Frier, Solow and Gaither to discuss
512a	4/15/74 3:30 p.m.	Joseph H. Frier, Jr., Esq.	Advised of conversation with Golden and conference call in morning
	4/16/74 11:00 a.m.	Conference call with: Thomas Golden, George Solow, Joseph H. Frier, Jr., Esq. & J. Carroll Abernathy	Discussion as to funds needed to settle with secured creditors, pay court costs and have initial deposit for unsecured creditors. Discussed selling of inventory and one building.

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		Golden said he would obtain bids on inventory. Discussed completion of building. Agreed to ask Court for week's adjournment to come up with package deal.
12:35 p.m.	George Solow	Discussed conference call of earlier this date.
3:00 p.m.	Joseph H. Frier, Jr., Esq.	Advised he spoke with Silverman who will advise Referee at Hearing (4/17) additional time needed to check inventory. Also spoke with Gaither who agreed to solution discussed during

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		conference call.
4/18/74 2:40 p.m.	Joseph H. Frier, Jr., Esq.	Referee granted time to 4/22 for submission of proposals as to sale of inventory.
4/26/74 1:00 p.m.	Joseph H. Frier, Jr., Esq.	Frier stated Silverman had advised monies were deposited with court in connection with sale of inventory
5/13/74 10:55 a.m.	Joseph H. Frier, Jr., Esq.	Advised he told Abernathy we consent to sale of inventory to Silverman.
5/23/74 12:50 p.m.	Joseph H. Frier, Jr., Esq.	Advised him Solow not available to sign agreement re: Completion of New Building; discussed request to

		adjourn hearing scheduled for 5/19/74 pending Solow's return.
5/24/74 10:35 a.m.	Joseph H. Frier, Jr., Esq.	Discussed Amendment to Complaint in Proceedings to determine monies to be paid to secured creditors based on sale of inventory.
5/29/74 9:05 a.m.	George Solow	Delivered signed agreement re: Completion of new building to this office this morning.
10:30 a.m.	Joseph H. Frier, Jr., Esq.	Agreement re: completion of new building will be forwarded to him today for signature and forwarded to

		Gaither.
5/30/74 2:20 p.m.	Joseph H. Frier, Jr.,	Discussed allowance application.
6/7/74 10:15 a.m.	Joseph H. Frier, Jr., Esq.	Discussed meeting with Solow, Golden and Gaither to fully review situation.
6/10/74 10:40 a.m.	James Gaither	Discussed need for Amended Plan and need to sell 2 buildings, not 1, to fund same; he believes will have to qualify authorization to sell 1 building based on approval of Amended Plan to be submitted.
10:50 a.m.	George Solow	Advised of letter he received from Golden discussing present situation.

			Told him of conversation with Gaither.
	6/11/74	10:30 a.m.	Joseph H. Frier, Jr., Esq.	Advised Golden and Gaither will be in New York on 6/12 to meet with us and Solow at this office.
		10:35 a.m.	George Solow	Told of meeting with Frier, Golden and Gaither on 6/12 to discuss entire situation.
	6/28/74	3:20 p.m.	James Gaither	He said would forward duplicate of Agreement with Jack Sipe Construction Company re: completion of new building for signature.
		3:30 p.m.	Joseph H. Frier, Jr.,	Advised of conversation with Gaither.

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	7/1/74	3:05 p.m.	Joseph H. Frier, Jr., Esq.	Agreements being forwarded to Gaither per conversations on 6/28/74.
	7/15/74	11:30 a.m.	George Solow	Discussed letter from Golden reviewing current status of debtor and prospects.
	7/16/74	1:40 p.m.	Joseph H. Frier, Jr., Esq.	Discussed counsel fees. He will write to Bankruptcy Judge on this matter.
	8/20/74	12:15 p.m.	Joseh H. Frier, Jr., Esq.	Discussed present status of Chapter XI proceedings.
	9/3/74	12:10 p.m.	George Solow	Discussed letter from Golden as to possible means to Fund Plan and advised I was writing to Gaither with

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		respect to said letter asking him for his thoughts in the matter.
9/12/74 3:30 p.m.	Joseph H. Frier, Jr., Esq.	Advised of his conversation with Gaither concerning monies received by Gaither from Court advised Golden not willing to sell property yet. Discussed Gaither request for meeting in New York.
9/25/74 11:05 a.m.	Joseph H. Frier, Jr., Esq.	Agreed to hold meeting in New York with Golden and Gaither during week of September 30th.
9/30/74 9:50 a.m.	James Gaither	Discussed offer to purchase debtor's shopping center for $335,000. and Funding of Plan. Agreed to meet in New York prior to October 4th.
10/2/74 11:35 a.m.	George Solow	Discussed meeting with Golden and Gaither at this office on 10/3/74 and present status of debtor's financial position.
11:45 a.m.	Joseph H. Frier, Jr., Esq.	Confirmed meeting with Golden and Gaither for 10/3/74, this office.
3:00 p.m.	James Gaither	Confirmed meeting with himself and Golden for 10/3/74 this office.
11/7/74 11:00 a.m.	Joseph H. Frier, Jr.,	Discussed Gaither letter of 11/1/74

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		advising of developments since meeting of 10/3/74. He stated had discussed matter with Gaither.
11:55 a.m.	James Gaither	Advised he was filing Motion to continue date to file deposit with Court or, in alternative, to permit new Plan to be filed. Requested consent of creditors committee to this action.
11/27/74 2:20 p.m.	Joseph H. Frier, Jr., Esq.	Discussed present status of proceedings vis-a-vis Plan of Arrangement. Stated I had raised this matter in letter to Abernathy and was awaiting reply.

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12/2/64 2:15 p.m.	Joseph H. Frier, Jr., Esq.	Discussed present status of proceedings. He will discuss with Golden.
1/21/75 5:00 p.m.	James Gaither	Discussed Show Cause Order re: filing of bond by debtor to continue in Chapter XI or otherwise be adjudicated; discussed current status as to default on 2nd mortgage payments by debtor. Hearing set for 1/22/75, discussed filing of Chapter X Petition.
1/23/75 10:05 a.m.	James Gaither	Advised $50,000 indemnity bond required within 2 weeks to continue Chapter XI. Discussed feasibility of

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		Chapter X filing; discussed appraisal values on debtor's real estate current negative cash flow of debtor.
1/30/75 1:45 p.m.	James Gaither	Discussed debtor's cash flow problem and possibility of obtaining additional time on mortgage payments; requested he forward copies of appraisals to see if situation can be salvaged.
2/11/75 10:20 a.m.	George Solow	Discussed present status and financial position of debtor and as to possibility of preventing total loss to unsecured creditors.

Note: Debtor Adjudicated Bankrupt by Order dated February 14, 1975

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GOLDEN ENTERPRISES, INC. - CORRESPONDENCE RECEIVED

Date	From Whom	Subject
6/11/73	Aurora Products Corp.	Enclosing Proof of Claim and power of attorney to be filed with Bankruptcy Court
6/11/73	Lumin Jewelry Company, Inc.	Authorizing representation in Chapter XI proceeding by Winard
6/18/73	Olumpic International Ltd.	Enclosing executed Proof of Claim for filing
6/20/73	Albert Altesman, Esq.	Enclosing copy of letter to J. Carroll Abernathy, Esq. advising of meeting of creditors in New York and discussing counsel arrangements.
6/20/73	Albert Altesman, Esq.	Enclosing copy of letter to Abernathy forward-

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		ing proofs of claim and discussing election of Creditors Committee
7/16/73	J. Carroll Abernathy, Jr., Esq.	Copy of letter to Altesman, discussing financial position of debtor vis-a-vis financing building
7/19/73	J. Carroll Abernathy, Jr., Esq.	Enclosing Order appointing Creditors Committee
7/23/73	Joseph H. Frier, Jr., Esq.	Copy of letter to James Gaither, Esq., attorney for debtor, advising of creditor's meeting 8/15/73 at office of Arthur I. Winard
8/7/73	Joseph H. Frier, Jr., Esq.	Enclosing Order with regard to Official Creditors Committee

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8/17/73	James M. Gaither, Esq.	Enclosing Application and Order for extension of time for filing Plan of Arrangement
8/20/73	Albert Altesman, Esq.	Copy of letter to Gaither requesting information as to present financial status and preparation of Plan of Arrangement
8/21/73	Olympic International Ltd.	Inquiring as to present status of Chapter XI proceedings
9/17/73	Joseph H. Frier, Jr., Esq.	Copy of letter to Fairley, Hamrick, Monteither & Coss, Esqs. as to their motion to establish security interest on debtor's inventory returned from California. Requesting motion be adjourned pending adoption of Plan

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9/19/73	George I. Cohen, Esq.	Enclosing Proof of Claim and Consent to Plan on behalf of S.R.S. Jewelry Casting Corp.
9/19/73	Mendenhall's	Requesting that Proof of Claim be filed on their behalf; enclosing invoices and statement
10/4/73	Joseph H. Frier, Jr., Esq.	Copy of letter to James Gaither enclosing Consents received to date
10/5/73	J. Carroll Abernathy,	Advising Confirmation Hearing set for 10/10/73
10/10/73	Joseph H. Frier, Jr., Esq.	Copy of letter to James Gaither, Esq. outlining amendments to Plan of Arrangement drawn up by Frier and Winard
10/23/73	Collier, Harris & Homisky, Esqs.	Enclosing Consent to Plan on behalf of Top Brands, Inc. [Consent sent to Frier] and requesting further communications to them as attorneys for creditor Top Brands
11/5/73	Joseph H. Frier, Jr., Esq.	Enclosing copy of letter from J. Carroll Abernathy, Esq., advising as to Hearing 10/25/73; dates to file Allowance Application and discussing financing of Plan
11/15/73	Joseph H. Frier, Jr., Esq.	Copy of letter to Abernathy enclosing Frier-Winard Allowance Application for submission Copy of letter to Gaither enclosing executed copy of Agreement with First-Citizens Bank & Trust Co. as to financing
11/21/73	J. Carroll Abernathy,	Advising of current status of Proceedings and

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	Esq.	of plan to complete debtor's building
12/3/73	J. Carroll Abernathy, Jr. Esq.	Advising Amendment Plan of Arrangement to be filed within one week; advising as to financing problems of debtor and attempts by debtor to obtain tenant for building
12/13/73	J. Carroll Abernathy, Jr., Esq.	Advising that First-Citizens Bank & Trust will make no further loans to debtor and advising of discussions with Gaither as to debtor's attempts to complete building and salvage Plan of Arrangement
12/21/73	J. Carroll Abernathy, Jr., Esq.	Advising Amended Plan received from Gaither. Inquiring as to whether copy received by

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		Winard and Frier
1/3/74	Joseph H. Frier, Jr., Esq.	Enclosing Amended Plan of Arrangement
1/3/74	Joseph H. Frier, Jr., Esq.	Copy of letter to Gaither inquiring as to whether debtor can obtain other financing and recommending adjudication if financing not available
1/21/74	James M. Gaither, Esq.	Enclosing copy of Motion for Extension of Time for Confirmation of Plan or for filing of Chapter X Petition, advising of extension to 2/14/74 and as to arrangements by debtor to complete building.
3/8/74	J. Carroll Abernathy, Jr., Esq.	Advising of suggestion of Bankruptcy Judge Cruciani as to submission of Order designating

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		attorneys for Creditors Commission
3/14/74	James M. Gaither, Esq.	Requesting this office prepare proposed Order designating attorneys for Creditors Committee
3/22/74	Golden Enterprises, Inc. (David A. Hutto III, Controller)	Advising of bids of 3rd parties to turn over debtor's retail stores and requesting Winard and Frier advise as to monies needed to settle with secured creditors and to pay taxes, court costs, etc.
3/28/74	J. Carroll Abernathy, Jr., Esq.	Reply to Winard letter of 3/18/74; discussing debtor's current financial situation, prospects of financing Plan and suggesting conference call with Frier and Gaither to fully discuss

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		situation, including possible adjudication
4/4/74	Golden Enterprises, Inc. (David A. Hutto III, Controller)	Forward breakdown of debtor's inventory as of 1/31/73 and 4/30/73 with breakdown of sales for period May-Dec., 1973 on month-by-month store-by-store basis per request of Winard.
4/8/74	Thomas Golden	Copy of letter sent to Gaither discussing debtor's current financial situation, Commercial Credit position and lien and possible funding of Plan of Arrangement
4/9/74	Joseph H. Frier, Jr., Esq.	Copy of letter to Gaither as to 3rd parties interested in possible financing of debtor and

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		advising no distribution order will be signed until it is known whether Plan can be confirmed and funded.
4/15/74	Thomas Golden	Setting forth his views as to steps needed to fund Plan including views as to liquidation of stores, refinancing and development of debtor's real estate
4/24/74	J. Carroll Abernathy, Jr. Esq.	Advising as to Hearing held 4/17, Order of Bankruptcy Judge as to Confirmation Hearing, appointment of attorneys for Credit Commission and funding of Plan
5/10/74	J. Carroll Abernathy, Jr., Esq.	Discussing Allowance Application and Hearing 5/29/74 with respect thereto
5/15/74	Joseph H. Frier, Jr., Esq.	Forwarding copies of letters from Gaither with respect to debtor's financing through Shelby Savings & Loan Association and Certificate of title as to debtor's real estate
5/23/74	James M. Gaither, Esq.	Enclosing Agreement between Creditors Committee - William E. Butner, Robert L. McKaughn, Jr. and Jack Sipe Construction Co. for signature by Chairman of Creditors Committee and attorneys for committee.
6/10/74	George Solow	Forwarding letters received from Thomas Golden setting forth debtor's financial position,

		proposals as to funding of Plan and projected balance sheet and requesting comment thereon for discussion with Golden
6/19/74	Joseph H. Frier, Jr., Esq.	Copy of letter to Abernathy advising of meeting held 6/12/74 in N.Y. with debtor and counsel
6/24/74	J. Carroll Abernathy, Jr.,	Advising of Hearing held 6/14/74 and discussion with Silver as to Petition for Counsel Fees and claims - secured and unsecured - of Marine Midland
7/1/74	James M. Gaither, Esq.	Enclosing Agreement between Creditors Committee and Jack Sipe Construction Co. etc. for signature by Winard, Frier and Solow

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7/16/74	James M. Gaither, Esq.	Enclosing copy of letter from Golden advising as to debtor's present situation. Requesting Winard comments
7/29/74	James M. Gaither, Esq.	Copy of letter to Shelby Savings and Loan Association concerning construction and leasing of debtor's building
8/20/74	James M. Gaither, Esq.	Advising of leasing of debtor's building, monies received on sale of inventory and suggesting meeting to discuss submission of Plan
9/3/74	Thomas Golden	Discussing proposals to fund Plan and advising of debtor's current financial situation
9/27/74	Thomas Golden	Discussing steps required to Fund Plan and

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		possible sale of shopping center owned by debtor to Superior Continental Corp.
10/3/74	Thomas Golden	Advising of attempt to sell shopping center and discussing funding of Plan
10/15/74	James M. Gaither, Esq.	Copy of status report of Golden Enterprises, Inc. filed 10/8/74 with Hon. Joseph Cruciano, Bankruptcy judge
10/21/74	James M. Gaither, Esq.	Enclosing letters to Superior Continental Corp. concerning leases to Superior of Metelpel Building State Road property and Tate Boulevard property
10/21/74	J. Carroll Abernathy, Jr., Esq.	Copy of letter to Gaither discussing proposals to fund Plan and status thereof and discussing status of proceedings in Chapter XI
11/4/74	James M. Gaither, Esq.	Advising of efforts to sell Metelpel Building, debtor's cash flow problems, proposals to Fund and possible conversion of Chapter XI to Chapter X
11/6/74	James M. Gaither, Esq.	Enclosing description of lease agreements for property owned and leased by debtor, statement of debtor's monthly income from leases, description of mortgages on debtor's property
11/12/74	Thomas Golden	Advising of debtor's financial situation
11/15/74	Robert W. Adams, Esq.	Advising North Carolina National Bank holdings

	(Council to North Carolina National Bank)	1000 shares of debtors stock as security on loan to Thomas Golden inquiring as to possible redemption of stock by Creditors Committee
11/25/74	Thomas Golden	Advising of financial position of debtor
12/5/74	J. Carroll Abernathy, Jr., Esq.	Advising that no action be taken to redeem debtor's stock held by North Carolina National Bank
12/13/74	J. Carroll Abernathy, Jr., Esq.	Report of Hearing held 12/5/74 and debtor's current financial position
1/6/75	James M. Gaither, Esq.	Full status report of debtor, summary of debtor's cash position and of attempts to fund Plan

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1/15/75	J. Carroll Abernathy, Jr., Esq.	Commentary on Gaither letter and report received 1/6/75, and prospects as to continuing in Chapter XI or adjudication of debtor
1/25/75	James M. Gaither, Esq.	Copy of letter to Thomas Golden discussing debtor's current position and possible filing of Chapter X petition
2/3/75	James M. Gaither, Esq.	Enclosing appraisals of debtor's properties and discussing same. Discussing possible Chapter X proceedings and requirement of debtor to file indemnity bond to continue in Chapter XI
3/3/75	James M. Gaither, Esq.	Advising of appointment of Joe Cagle as

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		Operating Trustee of debtor in Bankruptcy; inquiring as to offer to purchase debtor's property
3/10/75	J. Carroll Abernathy, Jr., Esq.	Enclosing copy of Adjudication Order discussing present financial position of debtor and opinion as to no distributions to unsecured creditors

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GOLDEN ENTERPRISES, INC. - CORRESPONDENCE SENT

Date	To Whom	Subject
5/29/73	J. Solow & Son	Inquiry as to whether they had spoken with James Gaither, Esq., attorney for Golden Enterprises, Inc.
6/1/73	J. Solow & Son	Enclosing copy of memoranda of conversation with Thomas Golden as to financial situation of Golden Enterprises, Inc.
6/8/73	Joseph H. Frier, Jr., Esq.	Confirming Frier to attend 1st meeting of Creditors (6/12/73) and advising Proofs of Claim to be filed.
6/11/73	Joseph H. Frier, Jr., Esq.	Enclosing Proofs of Claim (8) to be filed in

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6/11/73	Lumin Jewelry Company, Inc.	Enclosing Proofs of Claim to be executed and returned for filing.
6/11/73	Olympic International Ltd.	Enclosing Proofs of Claim to be executed and returned for filing
6/13/73	Joseph H. Frier, Jr., Esq.	Requesting copies of all claims filed by his office on 6/12/73
6/18/73	Joseph H. Frier, Jr., Esq.	Enclosing Proofs of Claim (2) for filing with Bankruptcy Court
6/29/73	George Solow	Enclosing memoranda of conversation with Altesman and Gaither as to financial of building, creditors committee and additional merchandise to debtor
7/6/73	J. Carroll Abernathy, Jr., Esq.	Advising of conversation with Gaither, requesting copies of Orders appointing Creditors Committee and concerning debtor's Los Angeles inventory
7/19/73	Albert Altesman, Esq.	Discussing proposed creditors meeting and advising of conversation with Chairman of Creditors Committee
7/18/73	George Solow	Advising of conversation with Frier and demand to be made of debtor and counsel for submission of Plan.
8/2/73	Joseph H. Frier, Jr., Esq.	Requesting copies of documents delivered by

		James Gaither, Esq. at meeting in 7/27/73
8/7/73	Joseph H. Frier, Jr., Esq.	Discussing preparation of Notice as to retaining of counsel by Creditors Committee
8/15/73	Albert Altesman, Esq.	Advising of conversation with Thomas Golden and James Gaither as to Chapter XI Plan and preparation thereat
8/17/73	Joseph H. Frier, Jr., Esq.	Enclosing copy of debtor's application to extend time to file Plan
9/7/73	Joseph H. Frier, Jr., Esq.	Inquiring as to whether Frier has heard from debtor with respect to Plan of Arrangement
	Olympic International, Ltd.	Acknowledging filing of Proof of Debt on behalf of Olympic

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9/12/73	All Creditors (Joint letter with Goldman, Frier and Altesman, Esqs.)	Advising of present status of Chapter XI and Plan of Arrangement; discussing Plan and recommending adoption.
9/19/73	Mendenhall's	Enclosing Proof of Claim for signature to be returned for filing
9/24/73	Joseph H. Frier, Jr., Esq.	Requesting he forward proposed changes to Plan of Arrangement
9/28/73	Joseph H. Frier, Jr., Esq.	Inquiry as to adjourned date of confirmation hearing and requesting proposed changes to Plan of Arrangement
10/2/73	Joseph H. Frier, Jr., Esq.	Requesting response to letter sent 9/28/73 (supra)

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10/3/73	Joseph H. Frier, Jr., Esq.	Forwarding Consents to Plan received.
10/15/73	Joseph H. Frier, Jr., Esq.	Inquiring as to whether he has received report on Confirmation Hearing
10/24/73	James M. Gaither, Esq.	Inquiring as to adjourned date of Confirmation Hearing and present status of proceedings
11/2/73	Joseph H. Frier, Jr., Esq.	Discussing Allowance Application
11/6/73	Joseph H. Frier, Jr., Esq.	Discussing letter from J. Carroll Abernathy (copy received 11/5/73) and financing of Plan and completion of debtor's building
11/12/73	Joseph H. Frier, Jr., Esq.	Returning signed copies of Petition for Allowances, requesting conformed copy when signed by all parties.

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11/20/73	Joseph H. Frier, Jr., Esq.	Inquiring as to Hearing held 11/19/73
11/21/73	Joseph H. Frier, Jr., Esq.	Requesting he contact Gaither to verify submission of Amended Plan for approval 11/14/73
11/26/73	Joseph H. Frier, Jr., Esq.	Enclosing additional Consent to Plan of Arrangement received by this office.
11/27/73	J. Carroll Abernathy, Esq.	Inquiring as to current status of Proceedings, Filing of Amended Plan, and financing of building by debtor
12/3/73	Joseph H. Frier, Jr., Esq.	Requesting he discuss debtor's present financial problems with James Gaither, Esq.
12/12/73	J. Carroll Abernathy, Esq.	Inquiring as to further developments since letter received 12/3/73

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1/16/74	James M. Gaither, Esq.	Recommending consent to adjudication if debtor cannot obtain financing for building
1/21/74	James M. Gaither, Esq.	Requesting immediate notification once debtor decides whether to continue in Chapter XI or file Chapter X Petition
1/24/74	Joseph H. Frier, Jr., Esq.	Advising of meeting had with Thomas Golden this date and discussion as to present financial status of debtor and attempts to obtain financing.
2/5/74	Thomas Golden	Advising of conversation with Frier concerning debtor's financial situation, suggesting conference call with Winard and Frier to discuss same.
2/8/74	Hon. Joseph P. Cruciani	Joint Winard-Frier letter advising of conference with debtor's counsel and requesting 60 day extension to attempt to locate 3rd party to purchase debtor's inventory or operate debtor's retail outlets
2/21/74	Joseph H. Frier, Jr., Esq.	Discussing possible termination of Chapter XI and adjudication of debtor
2/25/74	Joseph H. Frier, Jr., Esq.	Advising of conversation with George Solow as to granting of 60 day extension and conversation between Golden & Solow as to 3rd party offer to purchase inventory

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3/8/74	James M. Gaither, Esq.	Inquiring as to status of offer to purchase debtor's inventory and as to debtor's financial picture
3/14/74	Joseph H. Frier, Jr., Esq.	Enclosing letter from Gaither received this date and discussing status of proceedings
3/18/74	J. Carroll Abernathy, Esq.	Advising of discussions with George Solow concerning offers for debtor's inventory; discussing preparation of proposed Order designating Counsel for Creditors Commission and inquiring as to debtor's attempts to obtain refinancing
3/22/74	Joseph H. Frier, Jr., Esq.	Enclosing letter from debtor received this date and requesting report as to meeting with Commercial Credit representatives concerning their lien.
3/28/74	Joseph H. Frier, Jr., Esq.	Suggesting conference call be put through between Winard-Frier-Abernathy and Gaither after meeting with Commercial Credit representatives
4/4/74	Joseph H. Frier, Jr., Esq.	Forwarding inventory figures received this date from debtor for discussion with Commercial Credit representatives in seeking a reduction of their lien
4/8/74	James M. Gaither, Esq.	Discussing present status of Proceedings and

		requesting submission of proposals with respect to Plan.
4/10/74	Joseph H. Frier, Jr., Esq.	Advising of conversations with George Solow and Thomas Golden as to funding of Plan and possible meeting with debtor and counsel to discuss same.
4/12/74	Joseph H. Frier, Jr., Esq.	Advising that Solow was told Gaither coming to N. Y. for meeting and of conversation with Solow as to debtor's submission of Plan
4/24/74	Joseph H. Frier, Jr., Esq.	Inquiring as to whether he has been advised by debtor as to bids on inventory. Discussing Allowance application

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5/15/74	George Solow	Advising of discussions with Frier as to Plan of Arrangement; enclosing proposed disbursement order for signature and proposed Agreement to complete debtor's building under construction
5/15/74	James M. Gaither, Esq.	Forwarding signed disbursement order and Agreement with respect to completion of debtor's building
5/24/74	James M. Gaither, Esq.	Advising George Solow out of country and Agreement with Jack Sipe Construction Co. cannot be signed and requesting adjournment of Hearing for one week as to approval of

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		Agreement
5/29/74	Joseph H. Frier, Jr., Esq.	Forwarding Agreement with Jack Sipe Construction Co. for signature and transmittal to Gaither
6/10/74	Joseph H. Frier, Jr., Esq.	Advising of conversations with Gaither and Golden as to possible funding of Plan
8/12/74	James M. Gaither, Esq.	Inquiring as to status of Plan of Arrangement and preparation of same
8/20/74	James M. Gaither, Esq.	Requesting status report as of 8/31/74 and meeting thereafter to discuss steps to submit and confirm Plan
8/29/74	James M. Gaither, Esq.	Requesting specific information as to proposed sale of real estate, completion of building, payment of taxes
9/3/74	James M. Gaither, Esq.	Requesting comment on Golden letter received this date for discussion with Frier and Solow
9/27/74	Thomas Golden	In answer to Golden letter received this date recommending attempts to resolve sale of shopping center
10/3/74	J. Carroll Abernathy, Esq.	Reporting as to meeting this date with Golden, Gaither, Frier and Solow as to sale of shopping center, Metelpel Bldg. and funding of Plan

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10/10/74	James M. Gaither, Esq.	Requesting report as to developments since meeting of 10/3/74
11/19/74	Robert W. Adams, Esq.	In response to letter received from Adams on 11/15/74, advising matter will be taken up re redemption of stock
11/22/74	J. Carroll Abernathy, Esq.	Forwarding copy of Adams letter received 11/15/74 for discussion with Gaither and recommendation as to response
11/25/74	J. Carroll Abernathy, Esq.	Forwarding letter received this date from Thomas Golden and requesting he confer with Gaither as to prospects for submission of Plan
12/31/74	James M. Gaither, Esq.	Forwarding copy of letter and report received

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		from Abernathy this date and requesting comments thereon
1/6/75	J. Carroll Abernathy, Esq.	Requesting comments on Gaither letter and report received this date and suggesting discussion with Golden as to possible adjudication
1/15/75	Joseph H. Frier, Jr., Esq.	Discussing Abernathy letter received this date.
1/20/75	James M. Gaither, Esq.	Requesting report on meeting of secured creditors held 1/20/75
1/30/75	James M. Gaither, Esq.	Requesting copies of petition to convert to Chapter X, and appraisals on debtor's real estate. Discussing debtor's cash flow problem.

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2/3/75	James M. Gaither, Esq.	Requesting copies of prior appraisals; information as to restructure of 1st mortgage loan terms, description of properties with respect to obtaining possible offer for debtor's properties
2/6/75	George Solow	Forwarding copy of Gaither letter received 2/3/75, discussing weakness of present tenancies and opinion that matter cannot be salvaged
2/18/75	James M. Gaither, Esq.	Requesting report on Hearing held 2/5/75
2/18/75	J. Carroll Abernathy, Esq.	Requesting report as to debtor's present status for discussion with Creditors Committee
2/28/75	Joseph H. Frier, Jr., Esq.	Inquiring as to discussions with Abernathy and as to possible dividends to unsecured creditors

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Re: GOLDEN ENTERPRISES, INC.

Schedule of Time Devoted in Rendering Professional Services as Co-Counsel to Creditors Committee

With Whom and Subject	Time
Conferences and meeting with Creditors Committee, representatives and counsel for debtor, co-counsel for Creditors Committee and unsecured creditors	16 1/4 hrs.
Telephone calls	15 hrs.
Review of correspondence received	19 hrs.
Correspondence sent by this office--time devoted to preparation thereof	18 1/2 hrs.
Analysis of Plan of Arrangement, Amended Plan of Arrangement, debtor's financial statements, debtor's profit and loss statements, agreement by	

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and between William E. Burton and Robert L. McKaughn, Jr. and Jack Sipe Construction Company (2nd mortgage holder) and Creditors Committee of Golden Enterprises, analysis of appraisals of debtor's real estate, review of application to court and court orders	40 hrs.
Total	108 3/4 hrs.

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., Plaintiff, vs. SHELBY SAVINGS & LOAN ASSOCIATION, et al.

ORDER CONFIRMING SALE

THIS CAUSE coming on to be heard and being heard before the undersigned U.S. Bankruptcy Judge in chambers on July 29, 1975, upon motion of Joe N. Cagle, Trustee, for confirmation of the sale of the real estate of Golden Enterprises, Inc., and after review and consideration of the pleadings, the appraisals on file and other evidence, including arguments of counsel, and due deliberation being had thereon, the Court hereby enters its findings and order as follows:

1. That the Court heretofore entered an Order on June 30, 1975, authorizing the Trustee to sell the real

estate of the Bankrupt at public auction on July 28, 1975. The Trustee properly advertised the Bankruptcy Sale in accordance with the Rules of Bankruptcy and the Order of this Court. The sale was held by the Trustee on July 28, 1975, and it was regular and proper in all respects.

2. At said sale, the Trustee sold the real estate of the Bankrupt to the highest bidders, as follows:

TRACT I: Warehouse and office located at 1516 F Avenue, S.E., Hickory, North Carolina (known as Metelpel Products Building). This real estate is more particularly described in Deed Book 927 at Page 208, in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map 60H--Block 4--Lot 26.

Mercer Simmons, MAI, Appraisal-December 5, 1974-$110,000.00

Reule Investment Company, Appraisal-January 21,

1975-$98,766.09

1975 Catawba County Tax Revaluation-$104,950.00

This real estate was sold subject to a first Deed of Trust to James M. Gaither, Jr., in favor of The First National Bank of Catawba County, dated Februarey 19, 1971, in the original amount of $74,000.00, recorded in Deed Book 967 at Page 160, in the Office of the Register of Deeds for Catawba County, and the current year's property taxes.

First Deed of Trust balance: $53,385.98

Highest bid above first Deed of Trust balance: $43,500.00

Highest bidder: Bowman Investment Company

TRACT II: Real estate known as Office Complex or Shopping Center located on Fourth Street Drive, S. W., Hickory, North Carolina. This real estate is more particularly described in Deed Book 986 at Page 421 in the Office of the Register of Deeds for Catawba County. This property is also reflected

in Catawba County Tax Map 43H-Block10-Lot 36B.

Mercer Simmons, MAI, Appraisal-December 5, 1974-$250,000.00

Reule Investment Company, Appraisal-January 21, 1975--$256,077.93

1975 Catawba County Tax Revaluation-$253,710.00

This real estate was sold subject to a first Deed of Trust to Lee Dennis, Trustee in favor of Fidelity Federal Savings and Loan Association, dated August 11, 1972, in the original amount of $200,000.00, recorded in Deed Book 1005 at Page 495, in the Office of the Register of Deeds for Catawba County, and the current year's property taxes.

First Deed of Trust balance: $180,541.75

Highest bid above first Deed of Trust balance: $28,000.00

Highest bidder: Angelo J. Emanuel

TRACT III: Real estate on Little Street, S. E. (231 Ninth Street Lane, S. E.), Hickory, North Carolina.

This real estate is more particularly described in Deed Book 947 at Page 415 in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map 59H--Block 1--Lot 3.

Mercer Simmons, MAI, Appraisal-December 5, 1974-$360,000.00

Reule Investment Company, Appraisal-January 21, 1975-$336,257.87

1975 Catawba County Tax Revaluation-$290,240.00

This real estate was sold subject to a first Deed of Trust to Joseph C. Whisnant, Trustee in favor of Shelby Savings and Loan Association, dated Februarey 11, 1971, in the original amount of $260,000.00 recorded in Deed Book 967 at Page 28, in the Office of the Register of Deeds for Catawba County, and the current year's property taxes.

First Deed of Trust balance: $233,419.59

Highest bid above First Deed of Trust balance:

$75,000.00

Highest bidder: D. W. Bumgarner

TRACT IV: Real estate located at 1120 Tate Boulevard, Hickory, North Carolina, consisting of a 16 acre tract of land and 95,000 square foot industrial facility. This real estate is more particularly described in Deed Book 990 at Page 629 in the Office of the Register of Deeds for Catawba County. This property is also reflected in Catawba County Tax Map 60H--Block 1--Lot 11.

Mercer Simmons, MAI Appraisal-December 5,1974-$943,000.00

Reule Investment Company, Appraisal-January 21, 1975-$799,384.04

1975 Catawba County Tax Revaluation-$599,310.00

The major portion of this real estate was sold subject to a first Deed of Trust to Joseph C. Whisnant, Trustee in favor of Shelby Savings and Loan Association, dated April 2, 1973, in the original amount of $755,000.00,

recorded in Deed Book 1020 at Page 660 in the Office of the Register of Deeds for Catawba County, and the current year's property taxes.

First Deed of Trust balance: $7-9,310.55

Highest bid above first Deed of Trust balance: $100.00

Highest bidder: Shelby Savings and Loan Association

3. The Lessees of the above tracts of real estate were not made parties to the adversary proceedings giving rise to the Bankruptcy Sale, and the Trustee sold the real estate subject to the rights of tenants in possession, as well as to the first Deeds of Trust and current year's taxes.

4. The bids for Tracts I and III appear to be the highest and best bids obtainable, while the bids for Tracts II and IV are low. The Trustee has indicated that he can sell these two tracts at private sale for higher amounts than he received at the public auction.

5. The beneficiaries of the outstanding second Deed of Trust objected to confirmation of the Bankruptcy

Sale in its entirety. Further, the beneficiaries of said second Deed of Trust requested the Court to authorize and direct the Trustee to abandon and convey the said real estate directly to the beneficiaries of the said second Deed of Trust.

NOW, THEREFORE, IT IS ORDERED AND DECREED as follows:

1. The request of the beneficiaries of the second Deed of Trust for the Trustee to abandon and convey the said real estate directly to the beneficiaries of the said second Deed of Trust is denied.

2. The sale of Tracts II and IV are not confirmed and the Trustee is hereby authorized and directed to negotiate for and receive offers for the sale of said tracts at private sale, subject to further orders of this Court.

3. The sale of Tract I to Bowman Investment Company for $43,500.00 be and it is hereby confirmed and the Trustee is hereby authorized and directed to convey the said Tract I to Bowman Investment Company subject

only to easements for streets and public utilities, rights of tenants in possession, and the outstanding first Deed of Trust in favor of The First National Bank of Catawba County and the current year's ad valorem taxes.

4. The sale of Tract III to D. W. Bumgarner for $75,000.00 be and it is hereby confirmed and the Trustee is hereby authorized and directed to convey the said Tract III to D. W. Bumgarner subject only to easements for streets and public utilities, rights of tenants in possession, and the outstanding first Deed of Trust in favor of Shelby Savings and Loan Association and the current year's ad valorem taxes.

5. The rights and interests of the Employment Security Commission of North Carolina and William E. Butner, Robert L. McKaughn, Jr., and Jack Sipe Construction Co., beneficiaries of the outstanding second Deed of Trust on the real estate of the Bankrupt, be and they are hereby transferred to the proceeds of the aforesaid

sales, with the validity, priority and amounts of said liens to be determined by subsequent order of this Court.

6. The costs of this proceeding, including all costs incidental to the sale of said real estate are hereby charged as a part of the costs of administration.

This the 4th day of August, 1975.

/s/ Joseph R. Cruciani

U. S. Bankruptcy Judge

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

PETITION FOR ATTORNEY'S FEES FOR

J. CARROLL ABERNETHY, JR., ONE OF

THE ATTORNEYS OF CREDITORS' COMMITTEE

TO THE HONORABLE JOSEPH R. CRUCIANI, Bankruptcy Judge:

J. Carroll Abernethy, Jr., one of the attorneys for the Creditors' Committee respectfully shows unto the Court:

1. That the said J. Carroll Abernethy, Jr., is an Attorney at Law, offices in the City of Hickory, County of Catawba, State of North Carolina, and that he has practiced law in the said City of Hickory for more than 25 years. That a considerable portion of his practice consists of commercial collection matters and that he served as one of the attorneys for the Creditors'

Committee in the above entitled bankruptcy matter. That as a portion of his work as an attorney for the Creditors' Committee he attended the following hearings in Charlotte, North Carolina, each of which took a minimum of four hours from the time he left his office until he returned, and consisted of a round trip of approximately 100 miles. That the hearings he attended were on the following dates:

June 13, 1973

June 26, 1973

September 25, 1973

October 10, 1973

January 15, 1974

February 14, 1974

April 17, 1974

May 29, 1974

June 18, 1974

December 5, 1974

Total hours attending hearings: 40

Total miles to and from hearings: 1000

2. That in addition, on or about May 13, 1974, the said J. Carroll Abernethy, Jr., prepared for filing an Affidavit and Consent for the Creditors' Committee to be made a party to the Adversary Proceeding which was heard by the Court.

3. In addition thereto, the said J. Carroll Abernethy, Jr., had the following correspondence in regard to this matter:

(1.) September 26, 1973 - Letter to Mr. Joseph H. Frier, Jr.

(2.) October 5, 1973 - Letter to Mr. Joseph H. Frier, Jr.

(3.) October 26, 1973 - Report to Mr. Joseph H. Frier, Jr. on hearing held October 25, 1973

(4.) November 19, 1973 - Letter to Mr. Joseph H. Frier, Jr.

(5.) November 30, 1973 - Letter to Mr. Arthur I. Winard

(6.) January 9, 1974 - Letter to Furst & Furst re. Polaroid Corporation, the creditor

(7.) December 18, 1973 - Letter to Mr. Arthur I. Winard

(8.) December 11, 1973 - Letter to Mr. Joseph H. Frier, Jr.

(9.) January 9, 1974 - Letter to Mr. Joseph H. Frier, Jr.

(10.) March 6, 1974 - Letter to Mr. Joseph H. Frier, Jr.

(11.) March 25, 1974 - Letter to Mr. Arthur I. Winard

(12.) May 8, 1974 - Letter to Mr. Joseph H. Frier, Jr.

(13.) May 21, 1974 - Letter to Mr. Joseph H. Frier, Jr.

(14.) May 31, 1974 - Letter to Mr. Joseph H. Frier, Jr.

(15.) June 18, 1974 - Letter to Mr. Joseph H. Frier, Jr.

(16.) June 21, 1974 - Letter to Honorable Joseph R. Cruciani

(17.) August 22, 1974 - Letter to Mr. Robert J. Bernhardt, Attorney for a creditor

(18.) October 17, 1974 - Letter to Mr. James M. Gaither, Jr.

(19.) October 22, 1974 - Letter to Honorable Joseph R. Cruciani

(20.) December 3, 1974 - Letter to Mr. Arthur I. Winard

(21.) December 10, 1974 - Letter to Mr. Arthur I. Winard

(22.) December 10, 1974 - Letter to creditors of Golden Enterprises

(23.) January 13, 1975 - Letter to Mr. Arthur I. Winard

(24.) March 6, 1975 - Letter to Mr. Arthur I. Winard

(25.) March 7, 1975 - Letter to Popper & Popper, Attorneys for creditors

In addition to the above letters, the said J. Carroll Abernethy, Jr., has received a great deal of correspondence from Mr. Arthur I. Winard, and Mr. Joseph H. Frier, Jr., Attorneys for the Creditors' Committee, some correspondence from Mr. Tommy Golden, correspondence from Mr. James M. Gaither, Jr., Attorney for the bankrupt, and correspondence from various creditors and attorneys for the various creditors inquiring as to the status of the bankrupt's state. Considering reading the correspondence and dictating the replies, a minimum of 30 minutes would have been used for each letter hereinabove set forth, which would make a total of 12 1/2 hours.

4. In addition to the above matters, the said J. Carroll Abernethy, Jr. has had numerous conferences with Mr. James M. Gaither, Jr., Attorney for the Bankrupt, Mr. Meirs and Mr. Peele of First Citizens Bank & Trust Company in Hickory, N. C., Attorney George Huffman who represents Jack Sipe Construction

Company, and with numerous creditors both by telephone and personal correspondence.

It is the opinion of the said J. Carroll Abernethy, Jr., that his services, the services for the Attorney for the Bankrupt, and the services of the other attorneys for the Creditors' Committee were instrumental in conserving the assets of the Bankrupt as of the time of the Adjudication Bankruptcy.

5. That in the calendar year of 1973 the said J. Carroll Abernethy, Jr., from the practice of law, had a gross income of $45,930.44 and a net income of $32,2342.74. That in the calendar year 1974 the said J. Carroll Abernethy, Jr., had a gross income from the practice of law of $61,645.59 with a net income of $45,417.12. That the said J. Carroll Abernethy, Jr., customarily charges a minimum fee of $50.00 per hour for work done in his office and $100.00 per hour on work done out of his office.

6. That the number of hours which the said J.

Carroll Abernethy , Jr., has spent in regard to the above matter, out of his office is 40 hours at the rate of $100.00 per hour, which would be $4,000.00. In addition thereto, the said J. Carroll Abernethy, Jr., has spent a minimum of 12.5 hours in his office in regard to the above matter, which, at the rate of $50.00 per hour would be $625.00. In addition thereto, for travel expense and telephone calls, that the said J. Carroll Abernethy, Jr., has expended a minimum of $120.00.

THEREFORE, the said J. Carroll Abernethy, Jr., respectfully prays the court as follows:

(1) That he be reimbursed for expenses incurred in this matter in the amount of $120.00.

(2) That he be awarded an Attorney's Fee, for his services for the Creditors' Committee in the above entitled matter, in the amount of $4,625.00.

Respectfully submitted, this 14 day of August, 1975.

/s/ J. Carroll Abernethy, Jr.

Attorney at Law

P. O. Box 1492

Telephone No. 322-1060

Hickory, North Carolina 28601

(Acknowledgment omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

APPLICATION

NOW COMES, James M. Gaither, Jr., Attorney for the Debtor in the above captioned matter and shows unto the court

1. That he has previously filed an Application for Fees with the court on December 18, 1973 and May 20, 1974; that the court has entered an order awarding fees in the amount of $34,433.75 plus expenses advanced through May 20, 1974 in the amount of $2,240.13; (See Exhibit "c") that your applicant has received the sum of $9,000.00 as partial payment toward the order formerly entered by the court.

2. That your applicant owes Golden Enterprises in the amount of $75.00 for goods purchased at the inventory liquidation.

3. That since May 20, 1974 your applicant has performed services that have been beneficial to the bankrupt estate as set forth in Exhibit "A" attached hereto.

4. That since May 20, 1974 your applicant has performed services that have been beneficial to the bankrupt estate as set forth in Exhibit "B" attached hereto.

5. That the proper affidavit to comply with Rule 219 has been previously filed with the court.

6. That the hourly rate charged for the professional services rendered in this matter is $50.00 per hour.

7. That the total hours spent performing beneficial services for the estate of Golden Enterprises since May 20, 1974 is 373.3 hours.

WHEREFORE, your applicant prays unto the court:

1. for an order awarding attorneys fees for the attorney for the debtor in the Chapter 11 procedure that was converted to a straight bankruptcy on February 14, 1975;

2. that the court award additional expenses advanced

since May 20, 1974 to April 3, 1975 in the amount of $2,576.39;

3. for such other and further relief as the court may deem proper.

This the 18th day of August, 1975.

GAITHER & GORHAM

Post Office Box 1650

Hickory, North Carolina 28601

Telephone (704) 322-5505

(Verification omitted in printing)

(Jurat omitted in printing)

EXHIBIT A

May 1974		Hours
5-13-74	Trip to Charlotte regarding Commercial Credit	3.0
5-20-74	Letter to Joe Golden	.1
	Letter to California taxing authorities	.5
	Drafting notice of hearing on fees	.2
5-21-74	Amendment to complaint	1.5
	Drafting order relating to attorney's fees	.2
5-22-74	Examination of claim of Panasonic	.5
	Statement of taxes due State of California	.2
	Letter to Murray Tate	.1
5-23-74	Receipt of offer on shopping center	.1
	Negotiations related thereto	5.0
5-24-74	Letter from Winard	.1
	Examination of rent claim	.5
	Letter from creditor	.1
	Letter from creditor	.1

	Letter to Lester Key	.2
5-28-74	Letter from Thomas Golden	.2
	Drafting agreement between Butner, McKaughn, Sipe and Creditors' Committee	1.0
5-29-74	Letters to various creditors regarding disbursement order filed on May 28, 1974	.5
	Order for Commercial Credit Business Loans and negotiations related thereto and research	20.0
	Attending hearing in Charlotte	4.0
5-31-74	Letter from Joe Golden	.1
June 1974		
6-3-74	Letter from Edgar Love	.1
6-5-74	Letter to Joe Golden	2.6
	Letter to Register of Deeds	.1
	Letter to Friar	.1
6-7-74	Letter to Friar	.1

	Letter to creditor	.1
	Letter to Golden	.1
	Letter to Bankruptcy Office	.1
6-10-74	Letter to creditor	.1
	Letter to Edgar Love	.1
	Letter to George Huffman	.1
	Letter to Bankruptcy Office	.1
	Letter to creditor	.1
	Letter to creditor	.1
	Letter to N. C. Department of Revenue	.2
	Letter to John Cantrell	.2
	Letter to Sam Allison	.5
6-10-74	Drafting order	.3
	Letter from Hickory Tax Collector	.1
June 1974	Drafting note and deed of trust for $360,000 and negotiations related thereto	6.0
6-12-74	Trip to New York	8.0
6-13-74	Letter from George Huffman	.2

	Letter to Golden	.1
6-14-74	Letter from Friar	.1
	Letter from Winard	.1
	Letter to Murray Tate	.1
	Hearing in Charlotte with Marine Midland preparation	10.0
	Attending hearing	4.0
6-11-74	Letter from Bankruptcy Office	.5
6-15-74	Letter from creditor	.1
6-17-74	Drafting order regarding Marine Midland	.2
	Letter from creditor	.1
6-18-74	Letter to Bankruptcy Office	.2
	Letter to Edgar Love	.2
	Letter from Bankruptcy Office	.5
	Letter from Edgar Love	.2
	Letter to H. D. Frye	.3
6-20-74	Letter from Bankruptcy Office	.2
6-24-74	Letter from Commercial Credit	.2

6-25-74	Negotiations for sale of accounting machines	4.0
6-26-74	Letter from North Carolina Attorney General	.5
	Letter to Edgar Love	.2
6-27-75	Letter to Bankruptcy Office	.2
	Letter from Bankruptcy Office	.2
	Examination of Golden's figures on real estate	1.0
	Letter from Marine Midland	.2
6-29-74	Letter from Golden to Bill Burton	.2
	Letter from Golden to Dean Whisnant	.2
	Negotiations regarding closing of loan from Shelby Savings & Loan	20.0
May & June, 1974	Negotiations with Silverman Sales regarding sales inventory	20.0
	Examination of Golden's cash receipts and disbursements	1.0

July 1974

7-2-74	Drafting letter to Thomas Golden	3.0
7-3-74	Letter to Register of Deeds	.2
	Letter to creditor	.1
7-1-74	Letter from Friar	.1
7-4-74	Conference with Manning Silverman and Harold Dennis	3.5
	Conference with Joe Golden	1.0
	Telephone conference with Thomas Golden	2.5
7-5-74	Marine Midland research	1.0
7-17-74	Drafting application to extend time for docket and for filing application to confirm	1.5
7-18-74	Letter to Register of Deeds	.1
	Letter to Jack Setzer	.5
	Call from Golden	.5
7-15-75	Letter regarding Superior Continental lease and negotiations	4.3

	Letter from Superior Continental regarding lease negotiations and drafting	2.5
7-22-74	Letter to Friar	.1
	Letter to Jack Sipe	.2
	Letter to Golden	.1
	Letter from Golden	.6
7-23-74	Letter from Jack Kincaid	.4
	Letter to George Huffman	.5
	Letter from Bankruptcy Office	.2
7-24-75	Letter to Joe Golden regarding real estate	.2
	Letter from Silverman Sales	.5
7-25-74	Hearing on Marine Midland claim	2.3
	Copy of letter from Bankruptcy Office	.2
	Letter to Bankruptcy Office	.5
7-26-74	Letter from Department of Revenue	.2
	Proof of claim with Georgia taxing authorities	.1
	Order relating to real estate - drafting	.5

	Negotiations	5.0
	Drafting motion	1.5
	Trip to Charlotte regarding Marine Midland	4.0
7-31-74	Examination of Golden's cash receipts and disbursements	1.0
	Letter from Department of Justice	.1
	Letter from George Huffman (real estate)	.1
	Letter from creditor	.2
	Letter from creditor	.1
	Letter from creditor	.1
	Letter to Thomas Golden	.1
	Letter from Commercial Credit	.1
	Negotiations regarding real estate	5.0
7-8-74	Negotiations for consent order	4.0
	Consent order	1.0
7-16-74	Letter to Edgar Love	.1
	Drafting objection to allowance of claim	.5
July 1974	Negotiations for sale of accounting	

	equipment	4.0
June & July 1974	Complaint to sell real estate and negotiations related thereto	5.0
7-30-74	Letter from Joe Golden	.1
<u>August 1974</u>		
8-12-74	Letter from Winard	.5
8-15-74	Letter to Department of Revenue	1.0
8-19-74	Letter to creditor	.1
8-20-74	Letter from Winard	.1
8-22-74	Letter from creditor	.1
8-22-74	Attending hearing in Charlotte regarding fees	4.0
	Final negotiations for judgment and order against Marine Midland	1.5
8-29-74	Letter from Golden	.5
	Letter to Friar from Golden	.5
	Letter from Winard	.5
	Letter from creditor	.1
	Letter from Friar	1.0

8-30-74	Letter from creditor	.1
August 1974	Letter from Golden and related conferences regarding real estate management	14.0
	Examination of cash receipts and disbursements	1.0
	Negotiations regarding payment of approximately $30,000 in ad valorem taxes	14.0
September 1974		
9-7-74	Letter from Bankruptcy Office regarding disbursing agent	.5
9-9-74	Lawson Styles - negotiation regarding lease and letter	4.0
	Letter from Golden	.1
	Letter from Maurice Capps regarding McKaughn and Butner deed of trust and negotiations related thereto	5.0
9-11-74	Letter to Bankruptcy Office	.2

	Letter to Joe Golden	.5
9-12-74	Letter from creditor	.2
	Letter to Joann Harris regarding disbursement account	.1
9-10-74	Letter from creditor	.1
9-13-74	Letter from Bankruptcy Office	.1
9-16-74	Letter to Superior Continental regarding lease	.5
	Letter from Golden	.1
	Letter from Golden	.1
9-18-74	Letter to Duke Power	.2
	Letter from Golden	.1
	Letter from Winard	.1
9-19-74	Letter from creditor	.1
9-25-74	Letter to Golden	.1
	Letter to Joe Golden	.1
	Various letters from creditors	1.2
9-26-74	Letter to George Huffman	.1
	Letter to Bankruptcy Office	.1

	Letter to California taxing authorities	.1
	Letter to Golden regarding ad valorem property taxes	.1
9-30-74	Letters regarding taxes	.8
	Motion in the cause, drafting and filing	1.5
	Filing objection to claim of William Grooh and research related thereto and hearing thereon dated 10-16-74	4.5
	Drafting statement of disbursement on loan from Shelby	1.0
	Conference with George Huffman, Shelby Savings & Loan, Catawba County and City of Hickory taxing authorities	4.5

October 1974

10-3-74	Trip to New York regarding real estate and amendment of plan	20.0
10-8-74	Drafting letter to Judge Cruciani regarding status report	3.5
	Letter from J. Golden	.3

10-17-74	Letter from Carroll Abernethy	1.0
10-21-74	Letter to Carroll Abernethy regarding real estate	.4
10-29-74	Letter from Frank Baker	.5
10-31-74	Letter to Joe Golden	.5
	Drafting and computing monthly income and outgo for leases	12.5
	Drafting description of mortgages	4.2
	Examining disbursements	1.0
	Letters from creditors	1.0

July to November

1974	Drafting lease agreement between Golden Enterprises, William E. Butner, R. L. McKaughn, and Jack Sipe	1.0
	Drafting cancellation of assignment	1.0
	Drafting assignment	1.0
	Drafting subordination agreement	2.5
	Negotiations related to the above	10.4

November 1974

11-4-74	Letter to Joe Golden regarding leases on shopping center and accumulating contained in letter	4.5
	Letter to Robert Smoak - conferences regarding sale of real estate	2.3
	Letter to Bankruptcy Office	.2
	Letter to Dewey B. Wright regarding sale of Golden real estate and conferences related thereto	1.0
	Letter to Carroll Abernethy	.2
	Letter to Maurice Capps regarding sale of Golden real estate and conference related thereto	2.3
	Letter to Joseph Friar	.2
	Letter to Arthur Winard	.2
	Letter to Thomas Golden	.2
	Letter to William J. Lawing and conferences related to sale of shopping center	1.5

	Letter to Joe Golden	.1
	Letter to Robert Williams and conferences regarding Golden property	1.0
11-5-74	Letter to Thomas Golden regarding Deed of Easement to the City of Hickory across real estate owned by Golden	.5
	Conferences with City of Hickory regarding easement	1.0
	Letter to Golden regarding sale of fixtures	.3
11-6-74	Letter from Joe Golden regarding Fidelity Federal mortgage	.2
	Letter from Joe Golden regarding lease agreement	.5
	Computation of tax statements to Superior Continental and letters relative thereto	1.3
11-8-74	Conferences with Golden regarding	

Creditors' Committee, Chapter X, and real estate 1.3

11-12-74 Letter to Joe Golden .1

Letter from Joe Golden .1

Drafting motion to continue deposit due date; drafting order, letter to bankruptcy office 1.3

Letter to Joe Golden regarding real estate .2

11-14-74 Letter to Murray Tate regarding deed of easement .6

Letter to Thomas Golden .1

11-15-74 Letter from Joe Golden .6

11-18-74 Letter from City of Hickory regarding deed of easement .3

Letter to Thomas Golden regarding deed of easement .1

11-20-74 Letter from Thomas Golden regarding liquidation .6

11-20-74 Letter from Thomas Golden regarding deed of easement and fixture sale .2

11-21-74 Letter to Murray Tate regarding lease agreement and mortgages .1

Letter to Superior Continental Corp. regarding conversion .2

Letter to Thomas Golden regarding show cause notice .1

11-25-74 Letter to Joe Golden regarding ad valorem taxes .1

11-25-74 Various letters from creditors and replys 2.1

11-29-74 Reply to request for admissions in Grooh matter .5

Cash projections relative to cash flow of Golden properties 3.0

December 1974

12-1-74 Drafting affidavits for show cause hearing 4.0

	Letters from Thomas Golden	1.0
12-5-74	Hearing on claim of William Grooh	2.0
	Research related to above hearing	2.0
	Attending show cause hearing in Charlotte	4.0
12-12-74	Letter from George Huffman	.5
	Negotiations with James Hassell regarding sale of real estate	1.0
12-19-74	Drafting disbursement order	1.0

January 1975

1-2-75	Drafting letter to SBA regarding sale of company	1.0
	Negotiations with David Reule as follows:	
	Assembling information	4.0
	Various conferences	4.0
	These conferences regarded the appraised value of the real estate	

February 1975

	Attending adjudication hearing	4.0
	Affidavit regarding statement of assets of Golden	2.0
2-25-75	Letter to First Citizens Bank regarding Golden assets	.5
	Letter to Joe Cagle regarding assets	.5

April 1975

4-9-75	Drafting statement of unpaid debts incurred by debtor in possession	.5
	Drafting accounting of disbursement account	.5
4-3-75	Drafting statement of affairs	4.0
TOTAL HOURS		373.30

EXHIBIT "B"

EXPENSES ADVANCED

From May 20, 1974 to April 3, 1975

(Itemization omitted in printing)

Total $2,576.39

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., Plaintiff, vs. SHELBY SAVINGS & LOAN ASSOCIATION, et al, Defendants.

NOTICE OF APPEAL TO DISTRICT COURT

WILLIAM E. BUTNER, defendant and secured creditor of the above-captioned bankrupt, appeals to the District Court from the Order of the Bankruptcy Judge entered in this cause on August 11, 1975, confirming the sale of two (2) tracts of real estate of Golden Enterprises, Inc.; denying the request of the beneficiaries of second deeds of trust on said property for the trustee to abandon and convey said real estate to said beneficiaries; and delay by the Court in determining the validity, priority, and amounts of liens and rights and interests of the Employment Security Commission of

North Carolina, William E. Butner, Robert L. McKaughn, and Jack Sipe Construction Company, beneficiaries of the outstanding second deeds of trust on the real estate of the bankrupt; and taxing the costs of the proceedings herein including all expenses coincidental to the sale of real estate as a part of the costs of administration.

The parties to the Order appealed from and the addresses of their respective attorneys are as follows:

1. James M. Gaither, Jr.
   Attorney for the Bankrupt
   Post Office Box 1650
   Hickory, North Carolina 28601

2. George Huffman
   Attorney for Jack Sipe Construction Company
   Post Office Box 2021
   Hickory, North Carolina 28601

3. C. B. Cash, Jr.
   Attorney for Shelby Savings and Loan Association

   Post Office Box 729
   Shelby, North Carolina 28150

4. William R. Sigmon
   Attorney for Fidelity Federal Savings and Loan Association
   Post Office Box 1792
   Hickory, North Carolina 28601

5. J. Carroll Abernethy, Jr.
   Attorney for the Creditors Committee
   Post Office Box 1492
   Hickory, North Carolina 28601

This the 19th day of August, 1975.

/s/ William E. Butner

BUTNER, RUDISILL & BRACKETT

Attorneys for the Appellant

Post Office Box 2323

Hickory, North Carolina 28601

(704) 322-3130

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

August, 1975

607a

The undersigned Trustee submits the following report of receipts and disbursements in the month of August, 1975:

Cash Balance		$ 100,944.52
Rental Income Receipts:		
Beltone (Aug. rent)	$ 538.87	
Superior Continental (Aug. rent)	3,276.04	
Superior Continental (Aug. rent)	5,540.62	
Superior Continental (Aug. rent)	4,750.00	
C.I.T. Financial Services (Aug. rent)	487.50	
Iron Gate Restaurant (Aug. rent)	652.44	
Metelpel (Aug. rent)	1,015.62	
Travel World (June rent)	325.00	
Frelon Broome Insurance (Aug. rent)	350.00	
Capitol Credit (Aug. rent)	350.00	
PPV, Inc. (Aug. rent)	245.00	$ 17,531.09
Total Cash		$ 118,475.61
Cash Disbursements:		
Nancy Griffin - Entering claims	$ 180.00	

608a

Keever's Key & Repair Service - Keys for Shop-		
ping Center	$ 22.80	
The Charlotte Observer - Advertising Notice of		
Sale	158.40	
The Charlotte Observer - Advertising Notice of		
Sale	172.20	
Hickory Daily Record - Advertising Notice of Sale	61.20	
Hickory Daily Record - Advertising Notice of Sale	61.20	
Advanced Court Reporters - Appearance fee	10.00	
City of Hickory - Utility bill under lease	6.63	
City of Hickory - Utility bill under lease	6.63	
City of Hickory - Utility bill under lease	6.63	

609a

City of Hickory - Utility bill under lease	16.00	
Duke Power Company - Utility bill under lease	77.52	
Duke Power Company - Utility bill under lease	67.26	
Duke Power Company - Utility bill under lease	135.91	982.38
	Balance on Hand	$117,493.23

*Rental payments for the month of July and Aug. have not been received from Travel World.

*Of the Balance on Hand, $117,000.00 is deposited in a Passbook Savings Account at North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of Aug., 1975, in the above-referenced estate.

610a

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory, NC 28601

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MOTION FOR AMENDMENT AND ALTERATION OF JUDGMENT AND MOTION FOR A NEW HEARING

WILLIAM E. BUTNER, creditor, by and through the undersigned attorney of record, respectfully moves the Court, pursuant to Rule 752(b) of the Rules of Bankruptcy Procedure, to alter or amend the Order entered August 11, 1975, confirming the sale of certain real property of the above-named bankrupt, and further respectfully moves this Court, pursuant to Rule 923 of the Rules of Bankruptcy Procedure, for a new hearing on the Order of confirmation of sale of real property in this cause for the reasons hereinafter set forth:

1. SUMMARY OF FACTS. That your movant is a second mortgagee of the property which is the subject

matter herein by virtue of those Deeds of Trust having a combined original amount of Three Hundred Sixty Thousand ($360,000.00) Dollars dated March 13, 1973, and July 1, 1974, and recorded in Book 1018 at page 788 and Book 1051 at page 184, respectively, Catawba County Registry; that since May, 1973, and until April, 1975, the property of Golden Enterprises, Inc., was administered pursuant to Chapter XI of the Bankruptcy Act; that on or about April 16, 1975, a hearing was held in Federal District Court, Statesville, North Carolina, with the Honorable Joseph R. Cruciani presiding, wherein it was considered whether to convert the administration of the property of Golden Enterprises, Inc., to a straight bankruptcy proceeding.

At said hearing appraisals were submitted as to the value of the real property herein by Mercer W. Simmons, MAI, and by Reule Investment Company. Copies of said appraisals are attached hereto and marked as Exhibits "A" and "B" respectively.

At that time, as now, there were first Deeds of Trust on the property as follows:

(1) The warehouse and office located at 1516 "F" Avenue, S. E., Hickory, North Carolina (known as Metelpel Products Building), is subject to a first Deed of Trust to James M. Gaither, Jr., Trustee, in favor of the First National Bank of Catawba County, Hickory, North Carolina, dated February 19, 1971, in the original amount of Seventy-Four Thousand ($74,000.00) Dollars, recorded in Book 967 at page 160 in the Catawba County Registry.

(2) The property located as 231 Ninth Street Lane, S. E., Hickory, North Carolina (known as Continental Systems Building), is subject to a first Deed of Trust to Joseph C. Whisnant, Trustee, in favor of Shelby Savings and Loan Association, Shelby, North Carolina, dated February 11, 1971, in the original amount of Two Hundred Sixty Thousand ($260,000.00) Dollars, recorded in Book 967 at page 28 in the Catawba County

Registry.

(3) A major portion of the warehouse facility located at 1120 Tate Boulevard (Eastern Access), Hickory, North Carolina (known as Tate Boulevard Property), is subject to a first Deed of Trust to Joseph C. Whisnant, Trustee, in favor of Shelby Savings and Loan Association, Shelby, North Carolina, dated April 2, 1973, in the original amount of Seven Hundred Fifty-Five Thousand ($755,000.00) Dollars, recorded in Book 1020 at page 660 in the Catawba County Registry.

(4) The real estate located on Fourth Street Drive, S. W., Hickory, North Carolina (known as Office Complex or Shopping Center), is subject to a first Deed of Trust to Lee Dennis, Trustee, in favor of Fidelity Federal Savings and Loan Association, Hickory, North Carolina, dated August 11, 1972, in the original amount of Two Hundred Thousand ($200,000.00) Dollars, recorded in Book 1005 at page 495 in the Catawba County Registry.

At that time, as now, your movant was a secured creditor pursuant to second Deeds of Trust on the above-described property in the combined original amount of Three Hundred Sixty Thousand ($360,000.00) Dollars dated March 13, 1973, and July 1, 1974, and recorded in Book 1018 at page 788 and Book 1051 at page 184, respectively, in the Catawba County Registry.

From the facts presented, it was clear that as of April 16, 1975, there was no equity whatsoever in said property which could be used for the benefit of the general creditors and little equity for the second Deed of Trust, secured creditors.

Your movant appeared at said hearing and argued that on the basis of facts and evidence before the Court that the property should be abandoned to the second mortgagees, subject to the lien of the first mortgagees, so that further unnecessary costs of administration could be avoided, and the said second mortgagees could attempt to recoup part of their claim; that the

trustee of the bankrupt estate, the Honorable Joe N. Cagle, also stated that abandonment was proper.

That at the hearing on April 16, 1975, the Honorable Joseph R. Cruciani refused to order abandonment of the property, stating that it appeared that the status of the economy would be improving and that the proceeds of sale might be better than the evidence indicated. Judge Cruciani further indicated that, if the proceeds of the sale were not sufficient, the sale would not be confirmed and that abandonment would then be proper.

That on Monday, July 28, 1975, after due advertisement, a public sale was had of the property herein, and the results of said sale were as follows:

(1) Warehouse and office located at 1516 "F" Avenue, S.E., Hickory, North Carolina (known as Metelpel Products Building).

Highest bid above balance of first mortgage:

$43,500.00

(2) Property located at 231 Ninth Street Lane, S. E., Hickory, North Carolina (known as Continental Systems Building).

Highest bid above balance of first mortgage:

$75,000.00

(3) Warehouse facility located at 1120 Tate Boulevard (Eastern Access), Hickory, North Carolina (known as Tate Boulevard Property).

Highest bid above balance of first mortgage:

$100.00

(4) Real estate located on Fourth Street Drive, S. W., Hickory, North Carolina (known as Office Complex or Shopping Center).

Highest bid above balance of first mortgage:

$28,000.00

That the results of the sale as it affects the secured creditors and general creditors are shown on Exhibit "C" attached hereto.

That the hearing regarding the confirmation of the

sale of July 28, 1975, was held the day following the sale, to wit: July 29, 1975; that because of the small amounts bid on the above-described property, in light of the proceedings on April 16, 1975, your movant in good faith believed that the sale of the property would not be confirmed. For these reasons and because of the one-day period between the sale and the hearing regarding confirmation thereof, your movant did not have sufficient time, nor did he feel it necessary, to prepare legal authority and evidence for consideration by this Court in denying the confirmation of the sale; that movant has now discovered and gathered such legal authority and evidence as he believes would allow the Court to grant to your movant the relief sought herein as is more particularly described hereinafter.

2. ABUSE OF DISCRETION IN ORDERING AND CONFIRMING SALE. Movant alleges that given the facts hereinbefore set forth, to sell the real property herein free of the liens of the second mortgage hold-

ers, secured creditors, was not in keeping with the goal of the bankruptcy proceedings, to wit: maintaining the integrity of the Court in the equitable distribution of the estate of the bankrupt. Matter of Malter (Ref. Col. 1940) 47 Am.B.R.(N.S.) 172, mod. and aff'd sub nom. Stout v. Green (C.C.A. 9th, 1942) 52 Am.B.R.(N.S.) 63, 131 F.(2d) 995.

Although it is well settled that the bankruptcy courts may, if administration interests so require, sell property of bankrupt estates free of all claims, liens and encumbrances, movant alleges that the sale of the property herein, free of the second Deed of Trust, is not in the best interest of an equitable and proper administration of the estate herein. Collier on Bankruptcy Vol. 4A, Sec. 70.97 at page 1133, 1975.

In the case at bar, the uncontroverted evidence at hearings, and on the basis of appraisals submitted, is that the four tracts of property herein would sell for less than the sum of the liens of the first and second

mortgages by which they are encumbered. Movant submits that the property herein should have been released by the Court, and possession and control surrendered to the second mortgagees so said second mortgagees could foreclose or otherwise proceed in a court of competent jurisdiction. Federal Land Bank v. Kurtz (C.C.A., 4th Cir.), 25 Am.B.R.(N.S.) 63, 70F.(2d) 46; Manufacturers Bank and Trust Co. of St. Louis v. Lauchli (C.C.S. 8th, 1941) 45 Am.B.R.(N.S.) 772, 118 F.(2d) 607; Hoehn v. McIntosh (C.C.A. 6th, 1940) 42 Am.B.R.(N.S.) 475, 110 F.(2d) 199. In the Hoehn case, the Court said: "...ordinarily a bankruptcy court will not administer property burdened with liens when it is manifest that it will sell for less than the amount thereof, because it should not assume jurisdiction over that which it cannot administer. Under such circumstances, the Court should order the release and surrender possession and control of the property to the lienor to foreclose or otherwise proceed

. . ." Collier on Bankruptcy, Vol. 4A, Sec. 70.97, at page 1138, 1975.

Collier states, "It is a well settled rule that ordinarily a sale free of liens, claims and encumbrances should be ordered only where there is a reasonable probability that, if so sold, the property will bring more than the aggregate of encumbrances and sales expenses."

Union Electric Co. v. Hubbard (C.C.A., 4th Cir.), 39 Am.B.R. 529, 242 Fed. 248;

Federal Land Bank of Baltimore v. Kurtz (C.C.A., 4th Cir.) 25 Am.B.R.(N.S.) 63, 70 F.(2d) 46.

Movant argues that, if this rule is applicable in the decision ordering the sale, given the facts at bar prior to sale, and the further fact that the results of the sale, confirmed on August 11, 1975, proved the indications prior to sale were accurate, that this rule should be applied in deciding whether or not to confirm the sale and that the sale in the case at bar should

never have been had, and given the results of said sale, it is manifest that the sale should not be confirmed.

Movant, second mortgagee, made timely argument prior to the sale herein that the property should be abandoned to said second mortgagees, and that the Court should not burden itself with expenses of administration and/or sale since there was obviously no equity for the general creditors nor any other benefit likely to inure to the benefit of the general estate. For the same reasons, movant argues that the sale herein should not be confirmed and respectfully cites as authority the following: Louisville Joint Stock Land Bank v. Radford, 295 U.S. 555, 28 Am.B.R.(N.S.) 397, 55 S.Ct. 854, 79 L.Ed. 1593, 97 A.L.R. 1106; Federal Land Bank of Baltimore v. Kurtz, supra; Union Electric Co. v. Hubbard, (C.C.A., 4th Cir.), 39 Am.B.R. 529, 242 F. 248; Kimmel v. Crocker (C.C.A., 10th Cir.) 26 Am.B.R.(N.S.) 571, 72 F.

(2d) 599.

Courts have repeatedly held that where liens are of such amount that there is likely no excess of value in the property for the general creditors it should be surrendered to the lienholders. Movant argues that sale of the property in the instant case should not be confirmed and the property surrendered to the second mortgagees. In re Harralson (C.C.A., 8th Cir.), 24 Am.B.R. 715, 179 F 490, 29 L.R.A.(N.S.) 737. In re Franklin Brewing Co. (C.C.A., 2d Cir.), 41 Am.B.R. 51, 249 F. 333.

Movant further argues that the sale of the property herein free of the second Deed of Trust and a confirmation of said sale would be an abuse of discretion since there is obviously no equity for the bankrupt estate and the second mortgagees have not consented to said sale. Seaboard National Bank v. Rogers Milk Products Co. (C.C.A., 2d Cir.), 21 F.(2d) 414; In re National Grain Corp. (C.C.A., 2d Cir.), 7 Am.B.R.(N.S.) 422, 9 F.(2d) 802; Federal Land Bank of Baltimore

v. Kurtz; supra; Gantt v. Jones (C.C.A., 4th Cir.), 46 Am.B.R. 351, 272 F. 117.

The second mortgagees herein have repeatedly offered to take the property herein in satisfaction of their claim. As quoted in Collier, supra, In Matter of Menzies (D.C., Ariz.), 21 Am.B.R.(N.S.) 687, 60 F.(2d) 1064, the Court said: "It is well settled that the trustee is not required to administer property burdened with liens or mortgages, and he may abandon the same to secured creditors; IN FACT, IT IS HIS DUTY TO DO SO WHENEVER IT IS CERTAIN THAT THE GENERAL ESTATE WILL DERIVE NO BENEFIT FROM THE SALE OF SUCH PROPERTY" (emphasis added) . . . A trustee is not bound to administer property subject to liens to such an extent that nothing can be realized therefrom for the benefit of unsecured creditors. IN SUCH CASE, WHAT OUGHT TO BE DONE IS FOR THE TRUSTEE TO NEGOTIATE WITH THE MORTGAGEE AND SEE IF HE WILL NOT TAKE THE PROPERTY IN SATISFACTION OF HIS CLAIM." (emphasis

added)

Movant alleges that the uncontroverted facts before this Court are that there is no equity in the property for general creditors, little equity for the second mortgagees, and these facts were further substantiated by the results of the sale now contested. Movant alleges that precedent and equity require that the sale not be confirmed and the property surrendered and abandoned to the second mortgagees so that they may attempt to recoup some or all of their secured claim.

3. LEGAL AND LOGICAL REASONS FOR ABANDONMENT. The paramount purpose of bankruptcy liquidation and administration is the reduction of the bankrupt's property to money as quickly as practicable so as to secure funds for distribution to general creditors. Therefore, the trustee in examining the various assets with regard to their potential value when converted into money for distribution to creditors is initially faced with the duty to concentrate on property which

will prove most beneficial to the estate and to eliminate property that will be either valueless or unprofitable in its administration. Whether or not a trustee may abandon and disclaim the title to property which by provision of the bankruptcy law has been transferred to him is an alternative and well established by a long line of legal authorities. The trustee may abandon any property which is either worthless, or overburdened, or for any other reason certain not to yield any benefit to the general estate. American File Co. v. Garrett, 110 U.S. 288, 4 S.Ct. 90, 28 L.Ed. 149; Stanolind Oil & Gas Co. v. Logan (C.C.A., 5th Cir.), 34 Am.B.R.(N.S.) 685, 92 F.(2d) 28, cert. den. 302 U.S. 763, 58 S.Ct. 409, 82 L.Ed. 592 and 303 U.S. 636, 58 S.Ct. 522, 82 L.Ed. 1097; Central States Life Insurance Co. v. Koplar Co. (C.C.A., 8th Cir.), 30 Am.B.R.(N.S.) 236, 80 F.(2d) 754, cert. den. 298 U.S. 687, 56 S.Ct. 955, 80 L.Ed. 1406, and cases cited.

Rule 608 of the Rules of Bankruptcy Procedure empowers the bankruptcy court to abandon property as follows: "The court may, on application or on its own initiative and after hearing on such notice as it may direct, approve the abandonment of any property ..."

The trustee having been vested with the title to the property of the bankrupt has a reasonable time for considering the advisability of retaining or abandoning an encumbered or otherwise not clearly beneficial asset. The term "reasonable" implies that the period of deliberation is adaptable to the circumstances. The trustee may wait until he is able to ascertain whether there is any profit to be expected for the estate. This is particularly true where the prospects depend on fluctuating market conditions. In re Wiseman & Wallace (D.C., Pa.), 20 AmB.R. 293, 159 Fed. 236; Matter of Conemaugh Coal Mining Corp. (D.C., Pa.) 8 Am.B.R. (N.S.) 835, 18 F.(2d)682.

In dealing with the rights and liabilities connected

with abandoned property and accruing prior to formal abandonment, the courts have usually taken a more favorable view to third persons such as mortgagees and lienholders. Thus rents accruing between filing date and abandonment have been allotted to a mortgagee, whereas the estate was not, through abandonment, relieved of its share of expenses incurred prior to disclaimer. Robinson v. Dickey (C.C.A., 3d, Cir.), 15 Am.B.R.(N.S.) 267, 36 F.(2d) 147, cert. den. 281 U.S. 750, 50 S.C.t. 354, 74 L.Ed. 1161.

In fact, in Equitable Loan & Sec. Co. v. Moss & Co. (C.C.A., 5th Cir.), 11 Am.B.R. 111, 125 F.(2d) 609, the bankruptcy court was directed to release encumbered property on condition that the lienholder reimburse the trustee for his outlay on expenses in connection with maintaining the property less rentals received.

4. REQUEST FOR RELIEF. Based upon the foregoing recapitulation of the evidence and the situation of equitable and legal authority, movant herein re-

spectfully requests that the Order heretofore entered confirming sale of real property of Golden Enterprises, Inc., be altered and amended as follows:

(1) That the Court find as an additional fact that the movant herein is a secured creditor with rights prior and superior to general creditors.

(2) That the Court find as a fact that there is no equity in the property subject to the confirmation for distribution to the general creditors.

(3) That the Court find as a fact that confirmation of the sale of the real estate of Golden Enterprises, Inc., will produce no additional funds for distribution to the general creditors.

(4) That the Court find as a fact that abandonment of the property to the beneficiaries of the second Deed of Trust secured by said property subject to the first Deeds of Trust would place the beneficiaries of the first Deeds of Trust in the same situation as would confirmation of the sale of said real property

subject to the first Deeds of Trust.

(5) That the Court alter its judgment to conclude as a matter of law that the confirmation of the sale of real property of Golden Enterprises, Inc., as heretofore entered in this cause would produce no revenues for distribution to the general creditors and would substantially diminish the recovery of the beneficiaries of the second Deed of Trust secured by said property, and would further increase the costs of administering the estate of the bankrupt.

(6) That the confirmation of the sale of real estate of Golden Enterprises, Inc., at the sales prices heretofore reported by the trustee in bankruptcy is neither legally or equitably justified and is therefore denied.

This the 19th day of August, 1975.

BUTNER, RUDISILL & BRACKETT

Attorneys for the Defendant

Post Office Box 2323

Hickory, North Carolina 28601

By: /s/ J. Richardson Rudisill, Jr.

Exhibit "A"

The trustee, Joe N. Cagle, states that no formal written appraisal exists. See figures contained in trustee's Order dated August 4, 1975, as to appraisals submitted by Mercer W. Simmons, MAI.

January 22, 1975

Mr. James M. Gaither, Jr.

Butner & Gaither

Attorneys & Counsellors At Law

27 First Avenue, N. E.

Hickory, North Carolina 28601

Re: Income Analysis Of Real Property

Golden Enterprises, Inc.

Hickory, North Carolina

Dear Mr. Gaither:

Since our meeting, in your office on January 3, 1975, I have as agreed, compiled an Income Analysis of the four (4) income producing properties of the subject firm, and attempted to find an Investor-Purchaser for same.

Enclosed herewith are the four (4) analysis' of the properties.

Property	Page	Estimated Investment Value Above First Mortgage
1516 "F" Avenue, SE	A-1	$49,975.73

231 Ninth St. Lane, S.E.	A-2	$ 110,342.34
1120 Tate Boulevard	A-3	$ 57,925.73
Fourth Street Drive	A-4 & 5	$ 93,454.66
TOTAL		$311,698.46

It is the opini n of the writer, that the above figures represent a proper estimate of the Investment Fair Market Value, of each of the properties.

Since these figures are no way near the figures you gave me, which you stated an M.A.I. Appraiser had placed on the properties, I feel I must explain the difference in our approach.

1. None of our projections and assumptions take into consideration the present depressed economic situation we are now in.

2. A knowledgable investor, purchasing real property today, can get a 12% plus cash on cash return, investment with a AAA type tenant, long term pure net leases.

3. Real Property once improved and ready for use, in my opinion, loses its real estate characteristics and becomes a financial kind of vehicle. It therefore loses its relationship to cost in land, bricks and mortar and instead reacts to market conditions for its type of use. When studying these analysis', the following meanings apply:

Scheduled Gross Income: This is all of the income, which the project can conceivably produce, if the property is not under a long term lease, the income is escalated at 5.4% per year, where applicable.

Operating Expenses: These items are taken from figures furnished by Mr. Joe Golden and the experience of the writer, in dealing with these types of properties.

Reserves: It is necessary to set aside a small amount of money for reserves on each of the properties, since it is conceivable that, when the

property is turned back to the Landlord a new parking lot or some other major type of repair could be required, in order to make the property tenantable again, therefore, reserves must be set aside.

Interest: It is necessary to calculate some interest for all reserves, since this has a direct reflection on taxable income.

Net Operating Income: This figure represents the figure after all expense items and reserves have been deducted from the income, but the mortgage payment has not been made.

Gross Spendable Income: This item is the actual income that the owner of the property can take home. It is all of the expenses and the mortgage payment deducted from the gross income.

Gross Equity Income: This item represents, on a year to year basis, the return on the total project from mortgage payments and gross spendable income, plus reserves, however, you must keep in mind

that this money is not spendable, until such time as the property is sold, therefore, this is not a good reflection of income, until that time.

Estimated Investment Value: This value is determined by taking the gross spendable income and discounting it using the 12% factor for each year, through the first ten years of ownership; at which time the reversion of the property or the sale of the property is converted to cash, less any outstanding mortgage balance at that time. This figure is then discounted with the 12% factor and added to the ten (10) spendable income figures, by that a estimated investment value, up and above the outstanding loan value. This is the price, which a prudent investor would pay for the income stream, to be received in the years stated on the chart.

I appreciate all of the information, which you furnished me, and all of information which I obtained from other sources I believe to be reliable, however, its ac-

curacy, correctness, completeness, etc., are not guaranteed by this firm.

The writer assumes no responsibility for items which are legal in nature.

I appreciate this opportunity to analyze these properties for you, and if I can be of any additional assistance, please do not hesitate to call on me.

Very truly yours,

REULE INVESTMENT COMPANY

/s/ David P. Reule

President

DPR/kag

Exhibit "C"

	Metelpel Products Building	Continental Systems Building
Appraisal of Mercer W. Simmons, MAI	$110,000.00	$360,000.00
Appraisal of Reule Investment Company	98,766.09	336,257.87
Balance of first Deed of Trust	53,385.98	233,419.59
Highest bid above balance of first Deed of Trust	43,500.00	75,000.00

	Tate Boulevard Property	Shopping Center Property
Appraisal of Mercer W. Simmons, MAI	$943,000.00	$250,000.00
Appraisal of Reule Investment Company	799,384.04	256,077.93
Balance of first Deed of Trust	779,310.55	180,541.75
Highest bid above balance of first Deed of Trust	100.00	28,000.00

639a

Total of balances of first Deeds of Trust	$ 1,246,657.87
Second Deed of Trust covering these four tracts	$ 360,000.00
Total of highest bids above balances of first Deeds of Trust	$ 146,600.00
Deficit on second Deed of Trust	$ - 213,400.00
Balance available to general creditors	$ -0-

640a

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., Plaintiff, vs. SHELBY SAVINGS & LOAN ASSOCIATION, et al.

ORDER

THIS CAUSE coming on to be heard and being heard before the undersigned U.S. Bankruptcy Judge upon motion of William E. Butner requesting an alteration or amendment to the Order of the Court entered August 11, 1975, confirming the sale of certain real estate of Golden Enterprises, Inc., and for a new hearing thereon, and after review and consideration of the Motion, the pleadings and affidavits on file, appraisals and other evidence, and due deliberation being had thereon, the Court hereby enters its findings and order as follows:

1. That Joe N. Cagle is the duly appointed, qualified and acting Trustee in Bankruptcy for Golden Enterprises, Inc., which was adjudged a bankrupt on February 14, 1975.

2. That the assets belonging to the estate of the Bankrupt and in the possession of the Trustee in Bankruptcy consist primarily of four tracts of real estate located in Catawba County, North Carolina.

3. That said four tracts of real estate are encumbered with outstanding first and second deeds of trust, which are all in default.

4. That an Order was heretofore entered in this cause on June 30, 1975, authorizing the Trustee in Bankruptcy to sell the real estate at public auction on the 28th day of July, 1975, free and clear of all liens and encumbrances except the first deeds of trust and the current year's ad valorem taxes, with the rights of all other lienholders and secured parties transferred to the proceeds of said sale for a deter-

mination and marshalling by the Court.

5. That the aforesaid Order entered by this Court on June 30, 1975, was not modified, amended, or stayed, and the said Order was not appealed by any party.

6. That the Trustee properly and adequately advertised the Bankruptcy Sale in the Hickory Daily Record and The Charlotte Observer in accordance with the Rules of Bankruptcy and the Order of this Court.

7. That the Bankruptcy Sale was held by the Trustee on July 28, 1975, and it was regular and proper in all respects.

8. That the Bankruptcy Sale was well attended and there was spirited competitive bidding on Tracts I and III, although, apparently, none of the second lienholders entered any bids.

9. That this Court is unable to find any irregularity in the proceedings heretofore set forth and further

finds no abuse of its discretion in ordering and confirming the same.

NOW, THEREFORE, IT IS ORDERED and DECREED as follows:

1. That the Motion to alter or amend the Confirmation Order of this Court entered August 11, 1975, is denied.

2. That the Motion for a new hearing on the Confirmation Order of this Court entered August 11, 1975, is denied.

3. That the Trustee is hereby directed to forthwith comply with the term of the Confirmation Order entered by this Court on August 11, 1975.

This the 29th day of August, 1975.

/s/ Joseph R. Cruciani

U. S. Bankruptcy Judge

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

September, 1975

645a

The undersigned Trustee submits the following report of receipts and disbursements in the month of September, 1975:

Cash Balance		$ 117,493.23
Rental Income Receipts:		
Capitol Credit (Sept. rent)	$ 350.00	
Beltone (Sept. rent)	538.87	

646a

Iron Gate Restaurant (Sept. rent)	652.44	
Frelon Broome Insurance (Sept. rent)	350.00	
PPV, Inc. (Sept. rent)	245.00	
C.I.T. Financial Services (Sept. rent)	487.50	
Superior Continental (Sept. rent)	5,540.62	
Metelpel (Sept. rent)	1,015.62	
Superior Continental (Sept. rent)	3,276.04	12,456.09
Total Cash		$129,949.32

Cash Disbursements:

Central Telephone Co.--Utility bill under lease	$ 6.00
Central Telephone Co.--Utility bill under lease	6.00
City of Hickory--Utility bill under lease	7.56

City of Hickory--Utility bill under lease	6.63	
City of Hickory--Utility bill under lease	6.63	
City of Hickory--Utility bill under lease	16.00	
Clerk of Superior Court--Photocopies	14.00	
Duke Power Company--Utility bill under lease	134.68	
Duke Power Company--Utility bill under lease	92.64	
Duke Power Company--Utility bill under lease	89.14	379.28
	Balance on Hand	$129,570.04

*Of the Balance on Hand, $129,000.00 is deposited in a Passbook Savings Account at North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of September, 1975, in the above-referenced estate.

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Fidelity Federal Building

Hickory, NC 28601

647a

648a

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

October, 1975

649a

The undersigned Trustee submits the following report of receipts and disbursements in the month of October, 1975:

Cash Balance		$ 129,570.04
Rental Income Receipts:		
Beltone (Oct. rent)	$ 538.87	
Superior Continental (Oct. rent)	5,540.62	

650a

Superior Continental (Oct. rent)	3,276.04	
Iron Gate Restaurant (Oct. rent)	652.44	
Capitol Credit (Oct. rent)	350.00	
C.I.T. Financial Services (Oct. rent)	487.50	
PPV, Inc. (Oct. rent)	245.00	
Metelpel (Oct. rent)	1,015.62	
Travel World (July, Aug., Sept., rent)	975.00	
Frelon Broome Insurance (Oct. rent)	350.00	13,431.09
	Total Cash	$143,001.13

Cash Disbursements:

Duke Power Company--Utility bill under lease	$ 81.63
Duke Power Company--Utility bill under lease	59.96

Duke Power Company--Utility bill under lease	114.60	
City of Hickory--Utility bill under lease	6.63	
City of Hickory--Utility bill under lease	6.63	
City of Hickory--Utility bill under lease	7.33	
City of Hickory--Utility bill under lease	16.00	
Central Telephone Co.--Utility bill under lease	6.00	298.78
	Balance on Hand	$142,702.35

651a

**Of the Balance on Hand, $100,000.00 is represented by a Certificate of Deposit at North Carolina National Bank and $42,000.00 (plus interest) is deposited in a Pass-book Savings Account at North Carolina National Bank.

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of October, 1975, in the above-referenced Estate.

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

652a

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory, NC 28601

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., Bankrupt, Plaintiff, vs. SHELBY SAVINGS & LOAN ASSOCIATION and JOSEPH C. WHISNANT, as Trustee; THE FIRST NATIONAL BANK OF CATAWBA COUNTY and JAMES M. GAITHER, JR., as Trustee; FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION and LEE DENNIS, as Trustee; W. E. BUTNER, ROBERT L. McKAUGHN, JR., JACK SIPE CONSTRUCTION CO., and J. CARROLL ABERNETHY, JR., as Trustee; EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA; CATAWBA COUNTY TAX COLLECTOR; and CITY OF HICKORY TAX COLLECTOR, Defendants.

ORDER

THIS CAUSE coming on to be heard before the undersigned U. S. District Court upon Appeal of William E.

Butner from the Confirmation Order of the U. S. Bankruptcy Judge entered on August 11, 1975, in the above-entitled proceeding and after a review of the Record, and having heard arguments of Counsel for William E. Butner, the Trustee in Bankruptcy, Shelby Savings and Loan Association, The First National Bank of Catawba County, and Fidelity Federal Savings and Loan Association, with due deliberation being had thereon, the Court hereby enters the following order:

1. That the finds of the U. S. Bankruptcy Judge are hereby adopted.

2. That all the Deeds of Trust on the Bankrupt's real estate have been in default for some length of time and the outstanding balances continue to increase, so that the apparent equity in said real estate is fast diminishing.

3. That the beneficiaries of the second Deed of Trust ought to be allowed to use the outstanding principal balance of said Deed of Trust to bid at any Bank-

ruptcy Sale held by the Trustee.

4. That it appears that the Trustee should resell the real estate under the terms of the prior Order of the U.S. Bankruptcy Judge, except that the beneficiaries of the second Deed of Trust should be allowed to bid with their Deed of Trust.

THEREFORE, IT IS ORDERED AND DECREED as follows:

1. That the Trustee be and he is hereby authorized to resell the real estate of the Bankrupt at public auction, free and clear of all liens and encumbrances except the first Deeds of Trust thereon in favor of Shelby Savings and Loan Association, The First National Bank of Catawba County, Fidelity Federal Savings and Loan Association, and the current year's ad valorem taxes, and that the sale be held on the 12th day of November, 1975, beginning at 10:00 o'clock a.m.

2. That the rights of all other lienholders and secured parties be transferred to the proceeds of said

sale for a determination and marshalling by the Court.

3. That the beneficiaries of the second Deed of Trust shall be allowed to use the outstanding principal balance of their Deed of Trust to bid at said Bankruptcy Resale;

4. That the Trustee be and he is hereby authorized to advertise the public sale of the real estate in a newspaper published in Catawba County, North Carolina, as he deems fit and such notice shall be deemed sufficient for all purposes hereunder.

5. If the proceeds of said sale are insufficient in amount to pay the principal balance of $360,000.00 outstanding on the second Deed of Trust or if the holders of the said second Deed of Trust are not the high bidders within the amount of said principal balance of said second Deed of Trust on all four tracts of land, then the Trustee shall forthwith abandon the said real estate.

6. That the said sale shall be final and not subject

to confirmation of the Court.

7. That the costs incidental to the prior sale and all costs incidental to this resale, be charged as a part of the costs of administration.

8. That the Confirmation Order of the U. S. Bankruptcy Judge entered on August 11, 1975, is hereby amended and modified to conform to the within orders and instructions.

9. That this proceeding is hereby remanded for further proceedings in accordance with the orders and instructions hereinabove set forth.

This the 7th day of November, 1975.

/s/ Woodrow W. Jones

Judge, U. S. District Court

November 20, 1975

The Honorable Joseph R. Cruciani

U. S. Bankruptcy Judge

P. O. Box 1109

Charlotte, NC 28231

Re: Golden Enterprises, Inc.

ST-B-73-6

Gentlemen:

Enclosed for filing in the Bankruptcy file for Golden Enterprises, Inc., are the following documents:

1. Copy of Trustee Deed from Joe N. Cagle, Trustee in Bankruptcy for Golden Enterprises, Inc., to William E. Butner and wife, Ann E. Butner, dated November 19, 1975, which Deed was recorded on November 20, 1975, at 11:55 a.m. in Deed Book 1083 at Page 1, Catawba County Registry.

2. Assignment from Jack Sipe Construction Company to William E. Butner and wife, Ann E. Butner.

3. Assignment from Robert L. McKaughn, Jr., to

William E. Butner and wife, Ann E. Butner

Since the District Court Order specified that the second mortgage holders could bid with their second mortgages, the enclosed Assignments reflect that Mr. Butner's high bids entitled him to the real estate. This was done because the apparent interests of the second mortgage holders were undivided on the public records.

Inasmuch as the Trustee received no cash from this transaction, we expended no funds for revenue stamps. Inasmuch as I deemed it an obligation on the Trustee to see that the Deed was recorded, I advanced the recording fee. I believe that this transaction completes the disposition of the Bankrupt's real estate.

Very truly yours,

CAGLE AND HOUCK

/s/ Joe N. Cagle

JNC: aa

Enclosures

NORTH CAROLINA)

) TRUSTEE DEED

CATAWBA COUNTY)

THIS DEED, made this 19th day of November, 1975, from JOE N. CAGLE, TRUSTEE IN BANKRUPTCY FOR GOLDEN ENTERPRISES, INC., (hereinafter sometimes called "Grantor") to WILLIAM E. BUTNER and wife, ANN E. BUTNER, whose address is P. O. Box 2323, Hickory, North Carolina, (hereinafter sometimes called "Grantees").

WITNESSETH:

THAT the Grantor is the duly appointed, qualified and acting Trustee in Bankruptcy for Golden Enterprises, Inc., which was adjudged a bankrupt on February 14, 1975, in Bankruptcy No. ST-B-73-6;

THAT the Order Approving Trustee's Bond was recorded on April 10, 1975, in Deed Book 1066 at Page 923, in the Office of the Register of Deeds for Catawba County, North Carolina;

THAT the said Trustee instituted Adversary Proceedings in the U. S. Bankruptcy Court on June 11, 1975, to sell the real estate hereinafter described free of certain liens;

THAT an Order was entered on June 30, 1975, by the U. S. Bankruptcy Judge authorizing the Trustee in Bankruptcy to sell the real estate at public auction on the 28th day of July, 1975, free and clear of all liens and encumbrances except the first deeds of trust and the current year's ad valorem taxes, with the rights of all other lienholders and secured parties transferred to the proceeds of said sale for a determination and marshalling by the Court.

THAT a public sale of the real estate hereinafter described was held by the Trustee on July 28, 1975, in accordance with the Rules of Bankruptcy and the aforesaid Order, and that a Confirmation Order was entered by the U. S. Bankruptcy Judge on August 11, 1975;

THAT William E. Butner appealed the aforesaid Confirmation Order to the U. S. District Court on August 19, 1975;

THAT an Order of the U. S. District Court was entered on November 7, 1975, authorizing the Trustee to resell the real estate hereinafter described upon the terms and conditions set forth in said Order, a copy of which is annexed hereto as Exhibit "A."

THAT a resale of the said real estate was held by the Trustee on November 12, 1975, in accordance with the said Order of the U. S. District Court, and the Grantees became the purchasers at said sale.

NOW, THEREFORE, in consideration of the premises and pursuant to the Order of the U. S. District Court dated November 7, 1975, the Grantor does hereby grant, bargain, sell and convey unto the Grantees, their heirs and assigns, the real estate located in Hickory Township, Catawba County, State of North Carolina, and described as follows:

TRACT I

BEGINNING at an iron pin in the southern margin of F Avenue, Southeast, said iron pin being located South 67° 39' East 150.0 feet from 15th Street, Southeast; thence from said beginning point with the southern margin of F Avenue, Southeast, South 67° 39' East 151.0 feet to an old iron pin, C. W. Fox's Northwest corner; thence with Fox's line South 7° 58' West 289.56 feet to an old iron pin, a corner of S. E. Price; thence with Price's line North 51° 55' West 27.9 feet to an old iron pin; thence continuing with Price's line North 68° 29' West 198.3 feet to an old iron pin; thence North 22° 48' East 275.85 feet to the point or place of BEGINNING. The same being all of Lots 12 through 17, inclusive, in Block "B" of the St. Stephens Lutheran Church property as shown on a plat thereof recorded in Plat Book 7 at Page 126, in the Catawba County Public Registry.

Together with all the buildings and improvements thereon, and all rights, easements, hereditaments and

thereon, and all rights, easements, hereditaments and appurtenances thereunto belonging.

For partial chain of title see Deed Book 927 at Page 208, in the Office of the Register of Deeds for Catawba County. See also Tax Map 60H-4-26.

This conveyance is made subject to all existing and recorded rights of way and easements for streets, highways and public utilities, if any, affecting said property.

This tract is hereby conveyed subject to the outstanding Deed of Trust in favor of The First National Bank of Catawba County, dated February 19, 1971, in the original amount of $74,000.00, as described in Deed Book 967 at Page 160, Catawba County Registry, and the current year's property taxes.

TRACT II

BEGINNING at an iron stake in the eastern margin of Fourth Street, S. W., immediately adjoining a stone wall of the Ridgeview Cemetery, and running thence

with the margin of said street North 18° 06' West 33.47 feet to an iron stake; thence continuing with said margin North 1° 35' West 90.12 feet to an iron stake; thence continuing with said margin North 8° 51' East 175.02 feet to an iron stake, the southwestern corner of the property sold from the City of Hickory to Superior Automobile Insurance Company (occupied by Stephenson Finance Company); thence with Superior southern line North 79° 46' 40" East 148.41 feet to an iron stake in the western line of Elijah Covington (A. H. Field); thence with Covington's western line and the western line of Dr. R. W. Carver, South 24° 46' East 227.63 feet to an iron stake in Carver's line; thence with the line of Ridgeview Cemetery South 65° 52' West 279.82 feet to the point of BEGINNING, containing 1.29 acres, more or less. This description was taken from a survey by the City of Hickory Engineering Department on September 9, 1966.

Together with all the buildings and improvements

thereon, and all rights, easements, hereditaments and appurtenances thereunto belonging.

For partial chain of title see Deed Book 986 at Page 421, in the Office of the Register of Deeds for Catawba County. See also Tax Map 43H-10-36B.

This conveyance is made subject to all existing and recorded rights of way and easements for streets, highways and public utilities, if any, affecting said property.

This tract is hereby conveyed subject to the outstanding Deed of Trust in favor of Fidelity Federal Savings and Loan Association, dated August 11, 1972, in the original amount of $200,000.00, as described in Deed Book 1005 at Page 495, Catawba County Registry, and the current year's property taxes.

TRACT III

BEGINNING at an iron stake, the northeast corner of the property owned by Martel Company and running thence with the northern line of said Martel Company

North 86° 24' West for 427.69 feet to an iron pin located in the eastern margin of the right of way of Little Street, now State Road No. 1653; thence with the eastern margin of the right of way of Little Street for the following calls and distances: North 1° 02' West for 340.36 feet to an iron sta; e thence North 1° 38' West for 154.80 feet to an iron stake; thence along a curve, the eastern margin of said road, whose cord is 156.23 feet; cord bearing North 6° 05' West to an iron stake located in the western margin of a 20-foot road, the old line, said corner being 331 feet South of the center line of "C" Avenue, S. E.; thence with the old line, the western margin of a 20-foot road, South 33° 50' East for 814.83 feet to the point of BEGINNING and containing 3.11 acres, according to a plat of a survey made by Donald S. Miller, Registered Surveyor, of the John S. Little Estate made in December of 1969. Together with all the buildings and improvements thereon, and all rights, easements, hereditaments

and appurtenances thereunto belonging.

For partial chain of title see Deed Book 947 at Page 415, in the Office of the Register of Deeds for Catawba County. See also Tax Map 59H-1-3.

This conveyance is made subject to all existing and recorded rights of way and easements for streets, highways and public utilities, if any, affecting said property.

This tract is hereby conveyed subject to the outstanding Deed of Trust in favor of Shelby Savings and Loan Association, dated February 11, 1971, in the original amount of $260,000.00, as described in Deed Book 967 at Page 28, Catawba County Registry, and the current year's property taxes.

TRACT IV

A. BEGINNING at an iron pin, said pin being the Southwest corner of Tract No. 5 of the Walton C. Yount Estate property as recorded in Plat Book 3, Page 81, Catawba County Registry, and being located North 46° 46' West

150 feet from the center of 3rd Avenue Drive, S. E.; thence from said point of Beginning, North 61° 47' East 416.7 feet to a point in the John S. Little Estate property line; thence leaving the John S. Little Estate property line and establishing a new line, South 70° 30' East 150.31 feet; thence North 36° 36' East 17.46 feet; thence South 53° 24' East 56.75 feet; thence South 70° 30' East 402.05 feet to a point in Lot No. 3 of the Walton C. Yount Estate property, now owned by Regal Manufacturing Company; thence with the line of Regal Manufacturing Company, South 35° 39' West 392.16 feet to an iron pin in the line of Lot No. 5 of the Young property, the Southwest corner of Tract No. 3 of the Yount property; thence South 69° West 152.93 feet to an iron pin; thence South 58° West 135 feet to an iron pin in the South line of Tract No. 5 of the Walton C. Yount Estate property; thence North 46° 46' West 487 feet to an iron pin in the middle of 3rd Avenue Drive, S. E.; thence continuing the same call

150 feet to the point of BEGINNING. Being Lot No. 4 (excepting Tate Boulevard) and the Northwest portion of Lot No. 5 of the Walton C. Yount Estate Property. Being also Tract No. I and a portion of Tract No. III of the property of Golden Enterprises, Inc., as surveyed by Marion E. Bolch, Registered Surveyor, on May 12, 1972.

B. BEGINNING at an iron pin, said pin being the Southwest corner of Tract No. 3 and the Southeast corner of Tract No. 4 of the Walton C. Yount Estate property as shown in Plat Book 3 at Page 81, Catawba County Registry, and running thence from said point of Beginning South 69° West 152.93 feet to an iron pin; thence South 58° West 135 feet to an iron pin in the line of Avery Yount, Tract No. 6 of the plat herein referred to; thence South 46° 46' East 840 feet to an iron pin, the Southeast corner of this tract; thence North 20° 11' East 375 feet to an iron pin, said pin being the Southeast corner of Tract 5 of the Walton C. Yount

property; thence with the southern line of Tract No. 3 of the Walton C. Yount property, North 54° 47' West 593 feet to the point of BEGINNING.

C. BEGINNING at an iron pin in the southern margin of the right of way of Tate Boulevard, said pin being located North 61° 47' East 431 feet from the Southwest corner of Tract No. 4 of the Walton C. Yount property, as recorded in Plat Book 3 at Page 81, Catawba County Registry, and running thence from said point of Beginning, South 61° 47' West with the John S. Little Estate property line 250 feet to a point in said line; thence leaving the Little line and establishing a new line that runs with Tract No. IV-A, supra, South 70° 30' East 608 feet, more or less, to a point in the line of Tract No. 3 of the Walton C. Young property, now owned by Regal Manufacturing Company; thence with the line of Regal Manufacturing Company North 35° 39' East 250 feet to an iron pin; thence North 59° 33' West 70 feet, more or less, to a point; thence with the

southern right of way of Tate Boulevard North 79° 17' West 450 feet, more or less, to the point of BEGINNING.

Together with all the buildings and improvements thereon, and all rights, easements, hereditaments and appurtenances thereunto belonging.

For partial chain of title see Deed Book 990 at Page 629, in the Office of the Register of Deeds for Catawba County. See also Tax Map 60H-1-11.

This conveyance is made subject to all existing and recorded rights of way and easements for streets, highways and public utilities, if any, affecting said property.

This tract is hereby conveyed subject to the outstanding Deed of Trust in favor of Shelby Savings and Loan Association, dated April 2, 1973, in the original amount of $755,000.00, as described in Deed Book 1020 at Page 660, Catawba County Registry, and the current year's property taxes.

The accrued rents and the right to collect unpaid

accrued rents from the above-described tracts of real estate are hereby expressly not conveyed, but are reserved to the Grantor.

TO HAVE AND TO HOLD the aforesaid tracts or parcels of land and all privileges and appurtenances thereunto belonging or in anywise appertaining, to the said Grantees, their heirs and assigns, to their only use and behoof in fee simple forever, in as full and ample a manner as the said Trustee has power to convey the same.

IN WITNESS WHEREOF, the said Joe N. Cagle, acting as Trustee in Bankruptcy for Golden Enterprises, Inc., as hereinabove stated, has hereunto set his hand and affixed his seal, the day and year first above written.

/s/ Joe N. Cagle, Trustee in Bankruptcy for
Golden Enterprises, Inc.

(Acknowledgment omitted in printing)

(Certificate of Registration omitted in printing)

NORTH CAROLINA)
)ASSIGNMENT
CATAWBA COUNTY)

THIS ASSIGNMENT, made and entered into this the 12th day of November, 1975, by and between JACK SIPE CONSTRUCTION COMPANY, a corporation organized and existing under and by virtue of the laws of the State of North Carolina, and having its principal place of business in Hickory, North Carolina, hereinafter referred to as Party of the First Part, and WILLIAM E. BUTNER and wife, ANN E. BUTNER, of Hickory, Catawba County, North Carolina, hereinafter referred to as Parties of the Second Part:

WITNESSETH:

That for and in consideration of the mutual covenants contained herein and the further sum of ONE HUNDRED DOLLARS ($100.00) paid by the Parties of the Second Part to the Party of the First Part, the receipt of which is hereby acknow-

ledged, the parties hereto contract and agree as follows:

1. That Jack Sipe Construction Company and William E. Butner are holders of a deed of trust on four tracts or parcels of land located in Hickory Township, Catawba County, North Carolina, in the original amount of $360,000.00, dated July 1, 1974, and recorded in Book 1051 at Page 184, of the Catawba County Registry, to which said deed of trust reference is hereby expressly made for particularity.

2. That the property described in the above-referenced deed of trust was sold at a public bankruptcy sale at 10:00 a.m., November 12, 1975, at Fidelity Federal Savings and Loan Building located on First Avenue, N.E., Hickory, North Carolina, pursuant to the Order of the Honorable Woodrow W. Jones, Federal District Judge, dated November 7, 1975.

3. That the Party of the First Part hereby assigns to William E. Butner, and wife, Ann E. Butner, all of its right, title and interest whatsoever arising out of or through that indebtedness and deed of trust hereinabove referred to having an original balance of $360,000.00, dated July 1, 1974, and recorded in Book 1051 at Page 184 of the Catawba County Registry.

4. That simultaneously with the execution of this Assignment, the Parties of the Second Part shall pay to the Party of the First Part the sum of $10,000.00 in cash and in addition thereto the Parties of the Second Part shall execute and deliver to the Party of the First Part a promissory note for $42,200.00, bearing no interest, and being due and payable on or before December 27, 1975.

5. That the Parties of the Second Part shall convey to the Party of the First Part that building and premises located at 25 First Avenue, N.E. in

the City of Hickory, North Carolina, commonly referred to as the "Social Security Building," by Warranty Deed, subject to existing encumbrances of record, with the Party of the First Part as of December 28, 1975, assuming and agreeing to pay and save the Parties of the Second Part harmless from any and all liability arising out of or through that indebtedness to Fidelity Federal Savings & Loan Association, secured by that Deed of Trust dated February 28, 1975, in the original amount of $110,000.00 and being recorded in Book 1064 at Page 380 of the Catawba County Registry, PROVIDED, HOWEVER, that upon payment by the Parties of the Second Part to the Party of the First Part of $42,200.00 on or before December 27, 1975, the Party of the First Part shall immediately reconvey to the Parties of the Second Part said land and premises, subject to no more encumbrances than shall exist as of this date. That in the event the

Parties of the Second Part do not pay to the Party of the First Part the sum of $42,200.00 on or before December 27, 1975, the conveyance of the said "Social Security Building" shall be a total and complete satisfaction of any and all claims by the Party of the First Part against the Parties of the Second Part arising out of or through this Assignment of interest in the indebtedness and the Deed of Trust in the original sum of $360,000.00 dated July 1, 1974, and recorded in Book 1051 at Page 184 of the Catawba County Registry.

6. That the said "Social Security Building," located at 25 First Avenue, N. E. in the City of Hickory, North Carolina, is now subject to the following encumbrances:

(1) 1975 City and County ad valorem taxes.

(2) Deed of Trust to Fidelity Federal Savings and Loan Association in the original amount of $110,000.00, dated Feb-

ruary 28, 1975, of record in Book 1064 at Page 380 of the Catawba County Registry, now having a present outstanding balance of $107,756.43 and monthly payments of $1,148.66, with an interest rate of 9-1/2%.

(3) Deed of Trust to North Carolina National Bank dated March 3, 1975, in the original sum of $20,000.00, of record in Book 1064 at Page 475 of the Catawba County Registry, and having a present outstanding balance of $15,000.00, with quarterly payments of $5,000.00 plus interest at 1% over the prime rate.

(4) Lease in favor of the United States Government, General Services Administration.

7. That the Parties of the Second Part will save the Party of the First Part harmless from

any and all liability arising out of or through that certain Lease Agreement, as amended, executed by Robert L. McKaughn, Jr., William E. Butner, and Jack Sipe Construction Company in favor of Golden Enterprises, Inc. of those premises located at 1120 Tate Boulevard, Hickory, North Carolina, dated March 1, 1974, a memorandum of which is recorded in Book 1046 at Page 263 of the Catawba County Registry.

8. That the building known as the "Social Security Building" is now subject to a Lease Agreement in favor of the United States Government, General Services Administration, numbered GS-04B-11434, as extended by that Extension Rental Agreement dated October 20, 1971, for a term through and including January 31, 1977, at a monthly rental of $1,459.58 plus approximately $40.00 per month payment for overtime work of the Social Security Administration performed in said

building.

9. That neither the Parties of the Second Part, nor any agent of said Parties of the Second Part, shall contest the priority of the claim of the Party of the First Part arising out of its installation of a sprinkler system in the warehouse facility located at 1120 Tate Boulevard, Hickory, North Carolina, said property being more particularly described in that deed of trust dated April 2, 1973, and recorded in Book 1020 at Page 660 of the Catawba County Registry, to which reference is hereby expressly made for particularity of description, in that bankruptcy proceeding involving Golden Enterprises, Inc. now pending in the Bankruptcy Court for the Western District for North Carolina, bearing Bankruptcy No. ST-B-73-6.

10. That this agreement by the parties hereto is expressly conditioned upon the said Parties of the Second Part being conveyed title to the real

estate as described in that deed of trust dated July 1, 1974, and recorded in Book 1051 at Page 184 of the Catawba County Registry immediately by the Trustee in Bankruptcy for Golden Enterprises, Inc.

11. That the Parties of the Second Part shall pay 1975 City and County ad valorem taxes, and shall bring the deed of trust to Fidelity Federal Savings and Loan Association recorded in Book 1064 at Page 380 and the deed of trust to North Carolina National Bank recorded in Book 1064 at Page 475 current through and including December 27, 1975.

12. That in the event of a foreclosure by North Carolina National Bank of that deed of trust dated March 3, 1975, in the original sum of $20,000.00, of record in Book 1064 at Page 475 of the Catawba County Registry, prior to December 28, 1975, that the Parties of the Second Part shall pay the Trustee's commission and the court costs

of such a foreclosure.

13. That the Parties of the Second Part shall be entitled to the rental proceeds of the said "Social Security Building" and shall be responsible for utility and maintenance expenditures through and including December 27, 1975.

The parties hereto have executed this Agreement in duplicate originals, a copy of which is retained by each of the parties hereto, this the 12th day of November, 1975.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

Party of the First Part	Parties of the Second Part
JACK SIPE CONSTRUC-	
TION COMPANY	/s/ William E. Butner (SEAL)
by /s/ R.G.Sipe	
President	/s/ Ann E. Butner(SEAL)
Attest:	
/s/Margaret T. Sipe ,Secretary	

(Corporate Seal)

(Acknowledgements omitted in printing)

NORTH CAROLINA)
) ASSIGNMENT
CATAWBA COUNTY)

THIS ASSIGNMENT, made and entered into this the 12th day of November, 1975, by and between ROBERT L. McKAUGHN, JR. of Hickory, Catawba County, North Carolina, hereinafter referred to as Party of the First Part, and WILLIAM E. BUTNER and wife, ANN E. BUTNER, of Hickory, Catawba County, North Carolina, hereinafter referred to as Parties of the Second Part:

WITNESSETH:

That for and in consideration of the mutual covenants contained herein and the further sum of ONE HUNDRED DOLLARS ($100.00) paid by the Parties of the Second Part to the Party of the First Part, the receipt of which is hereby acknowledged, the parties hereto contract and agree as follows:

1. That Robert L. McKaughn, Jr. and

William E. Butner are holders of deeds of trust on four tracts or parcels of land located in Hickory Township, Catawba County, North Carolina in the original amounts of $250,000.00 and $360,000.00, dated March 13, 1973 and July 1, 1974 and recorded in Book 1018 at page 788 and Book 1051 at page 184, respectively of the Catawba County Registry, to which said deeds of trust reference is hereby expressly made for particularity.

2. That the property described in the above-referenced deeds of trust was sold at public bankruptcy sale at 10:00 a.m., November 12, 1975, at Fidelity Federal Savings and Loan Building located on First Avenue, N.E., Hickory, North Carolina pursuant to the Order of the Honorable Woodrow W. Jones, Federal District Judge, dated November 7, 1975.

3. That for and in consideration of William E. Butner's agreeing to assume and pay $120,000.00

of that certain note in the original amount of $150,000.00, given jointly by William E. Butner and Robert L. McKaughn, Jr. to the Bank of Granite, Hickory, North Carolina, that the Party of the First Part hereby assigns to William E. Butner and wife, Ann E. Butner, all of his right, title and interest whatsoever arising out of or through those indebtednesses and deeds of trust hereinbefore referred to having original balances of $250,000.00 and $360,000.00, dated March 13, 1973 and July 1, 1974, and recorded in Book 1018 at page 788 and Book 1051 at page 184 respectively of the Catawba County Registry.

4. That this agreement by the parties hereto is expressly conditioned upon the said Parties of the Second Part being conveyed title to the real estate as described in those deeds of trust dated March 13, 1973 and July 1, 1974 and recorded in Book 1018 at page 788 and Book 1051 at page 184

respectively of the Catawba County Registry immediately by the Trustee in Bankruptcy for Golden Enterprises, Inc. and without delay as a result of appeal or otherwise.

The parties hereto have executed this Assignment in duplicate originals, a copy of which is retained by each of the parties hereto, this the 12th day of November, 1975.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

PARTY OF THE FIRST PART

/s/Robert L. McKaughn, Jr. (SEAL)

PARTIES OF THE SECOND PART

/s/ William E. Butner (SEAL)

/s/ Ann E. Butner (SEAL)

(Acknowledgements omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption Omitted in Printing)

MOTION FOR DISTRIBUTION OF FUNDS

NOW COMES William E. Butner, by and through his undersigned attorney of record, and respectfully shows unto the Court and moves the Court as follows:

I.

Whereas, Golden Enterprises, Inc. was adjudicated bankrupt on February 14, 1975.

II.

That as of February 14, 1975, Jack Sipe Construction Company, Robert L. McKaughn, Jr., and William E. Butner were holders of valid second mortgages on the real property then owned by Golden Enterprises, Inc., consisting of four tracts or parcels more particularly described in that Trus-

tee's Deed dated November 19, 1975, from Joe N. Cagle, Trustee in Bankruptcy for Golden Enterprises, Inc., to William E. Butner and wife, Ann E. Butner, to which reference is hereby expressly made for particularity of description. That on or about the 12th day of November, 1975, Robert L. McKaughn, Jr. and Jack Sipe Construction Company assigned all of their right, title and interest whatsoever arising out of or through those second mortgages hereinabove described to William E. Butner and wife, Ann E. Butner.

III.

That the above-mentioned Trustee's Deed resulted from that resale of the property by virtue of the Order of the Honorable Woodrow W. Jones, Judge, United States District Court, dated November 7, 1975, in which said Order Judge Jones found as a fact that all deeds of trust on the real estate in question had been in default for some length of

time and the outstanding balances were continuing to increase.

IV.

That since the adjudication of straight bankruptcy as to Golden Enterprises, Inc. on February 14, 1975, the Trustee has been accumulating all rents and profits from the above-described real property, and you movant alleges upon information and belief that the Trustee is now holding in excess of $150,000.00 as a result therefrom.

V.

That the first mortgages on the above-described property have been in default for a considerable period of time and that the institutions holding these deeds of trust are required to bring their accounts current by federal regulation before December 31, 1975.

VI.

That title to the above-described real property,

subject to the above-mentioned first deeds of trust, was conveyed to William E. Butner and wife, Ann E. Butner, by that Trustee's Deed dated November 19, 1975, from Joe N. Cagle, Trustee in Bankruptcy for Golden Enterprises, Inc., which said Trustee's Deed was properly recorded in Book 1083 at Page 1 of the Catawba County Registry, to which said deed reference is hereby expressly made for particularity of description. That as secured creditor and valid holder of all right, title and interest to the second mortgages hereinabove referred to, your movant is entitled to a substantial portion of those accumulated rents and profits now held by the Honorable Joe N. Cagle, Trustee in Bankruptcy, and as second mortgagee, his secured interest entitles your movant to a prompt distribution of these funds to said second mortgagee, so as to enable him to bring current the first mortgages which are now in default, and without a prompt distribution of

those funds to the second mortgagee, the secured interest of the said William E. Butner will be substantially and irreparably damaged and diminished; that justice and equity and the spirit and purpose of the Federal Bankruptcy Act require a prompt distribution of those funds now held by the Trustee, so as to avoid further substantial losses to the secured creditors, both first and second mortgagees, in the above-entitled matter.

WHEREFORE, your movant respectfully prays the Court as follows:

1. That a hearing be had within the first two weeks of December, 1975, at which time a determination be made as to the respective interests of all concerned parties in and to those funds now held by the Honorable Joe N. Cagle, Trustee in Bankruptcy.

2. That the proper portion of those funds be immediately disbursed to your movant.

3. For such other and further relief as to the Court may seem just and proper.

This 25th day of November, 1975.

BUTNER, RUDISILL & BRACKETT

Post Office Box 2323

Hickory, North Carolina 28601

By /s/ J. Richardson Rudisill, Jr.

(Verification omitted in printing)

(Jurat omitted in printing)

(Certificate of Service omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

MONTHLY FINANCIAL REPORT

November, 1975

6952

The undersigned Trustee submits the following report of receipts and disbursements in the month of November, 1975:

Cash Balance		$ 142,702.35
Rental Income Receipts:		
Superior Continental (Nov. rent)	$ 5,540.62	
Beltone (Nov. rent)	538.87	
Iron Gate Restaurant (Nov. rent)	652.44	
Superior Continental (Nov. rent)	3,276.04	
Metelpel (Nov. rent)	1,015.62	
CIT Financial Corp. (Nov. rent)	487.50	
PPV, Inc. (Nov. rent)	245.00	
Frelon Broome Insurance Co. (Nov. rent)	350.00	
Capital Credit Corp. (Nov. rent)	350.00	12,456.09
	Total Cash	$155,158.44

6968

Cash Disbursements:

Duke Power Company--Utility bill under lease	$ 47.86
Duke Power Company--Utility bill under lease	80.55
Duke Power Company--Utility bill under lease	131.79

City of Hickory--Utility bill under lease	6.63	
City of Hickory--Utility bill under lease	16.00	
City of Hickory--Utility bill under lease	6.63	
City of Hickory--Utility bill under lease	6.63	
Hickory Daily Record--Advertisement of resale	61.60	
Central Telephone Co.--Utility bill under lease	6.00	
Register of Deeds-Recording Deed ot W.E. Butner and wife	8.50	372.10
	Balance on Hand	$154,786.34

**Of the Balance on Hand, $100,000.00 is represented by a Certificate of Deposit at North Carolina National Bank and $54,000.00 (Plus Interest) is deposited in a Passbook Savings Account at North Carolina National Bank.

697a

This is to certify that the above represents a true and accurate record of the receipts and disbursements of the undersigned Trustee during the month of November, 1975, in the above-referenced Estate.

/s/ Joe N. Cagle, Trustee

P. O. Box 2050

Hickory, NC 28601

698a

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK

P. O. Box 2050

Hickory. NC 28601

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption Omitted in Printing)

PETITION FOR ATTORNEY'S FEES

The undersigned Attorney hereby petitions the Court for an allowance of compensation for professional services rendered to and for the Trustee in Bankruptcy for Golden Enterprises, Inc., and respectfully shows unto the Court as follows:

I.

That Golden Enterprises, Inc., was adjudged a bankrupt on February 14, 1975, and Joe N. Cagle is the duly appointed and acting Trustee in Bankruptcy for said Bankrupt.

II.

That the undersigned was authorized by Order of the Court dated February 25, 1975, to act as Attorney for the said Trustee in Bankruptcy and the

undersigned has served as Attorney for the Trustee since February 25, 1975.

III.

That the legal services for which compensation is herein requested were performed for and on behalf of the Trustee, and not on behalf of any committee, creditor, or any other person. The said services include the following:

Date	Services Rendered	Hours
3/10/75	Conferences with Attorney for Bankrupt to review files, deeds, leases, etc.	3
3/11/75	Conferences with Attorney for Bankrupt to review his files, correspondence, deeds, leases, etc.	5
3/12/75	Showed Integon and Capitol Finance the spaces in the Shopping Center.	2
3/13/75	Title examination in the Register	8

	of Deeds Office.	
3/14/75	Title examination in the Register of Deeds Office.	8
3/14/75	Telephone call from Capitol re prospective lease in Shopping Center.	.5
3/17/75	Telephone negotiations with Capitol re prospective lease.	.5
3/18/75	Call from Attorney for Bankrupt --obtained copy of plans of Shopping Center from Fidelity Federal and reviewed them with prospective tenants, including Capitol Credit and Integon Life Insurance Company.	1.5
3/20/75	Met with Capitol Credit at Shopping Center re proposed lease.	.5
3/20/75	Went to Shopping Center and showed Capitol Credit the vacant spaces.	1

3/20/75	Negotiations in office re prospective lease to Capitol.	1
3/21/75	Attorney William J. Houck of Cagle and Houck met with Capitol finance for one hour (at 2:00 p.m. until 3:00 p.m.) to show them premises again.	1
3/25/75	Review assets schedule filed by Attorney for Bankrupt.	1
3/25/75	Telephone call to attorney for second mortgage holders.	1
3/25/75	Title examination.	2
3/25/75	Conference with Fidelity Federal regarding their position as mortgage holder in this bankruptcy.	1
3/25/75	Conference with The First National Bank of Catawba County regarding their status as mortgage holder in this bankruptcy.	1

3/25/75	Telephone call to U.S. Bankruptcy Office to request certified copy of Order of Appointment and approval of Bond to file in Register of Deeds Office.	.1
3/26/75	Letter to Internal Revenue Service in Greensboro regarding First Meeting of Creditors. Carbon copy to local division.	1
3/26/75	Letter to Bekins Moving & Storage Co., regarding their notice of legal sale. Carbon copy to Joseph R. Cruciani.	1
3/27/75	Conference in office with officials of Capitol Credit to negotiate final terms of a proposed lease of space in Golden Shopping Center.	1
3/27/75	Review asset schedule filed by	1

	Debtor's Attorney.	
3/27/75	Title examination.	4
3/28/75	Drafting proposed lease with Capitol Credit.	1
3/28/75	Drafting Petition for Authorization to Enter into Lease.	1
3/28/75	Drafting Order for Authorization to Enter into Lease.	1
3/28/75	Telephone call from Attorney Grover Perrique who represents Bekins in California.	.5
3/31/75	Showed office space to prospective tenant--Alcohol Rehabilitation Center.	1
4/1/75	Work on inventory.	1
4/1/75	Telephone conversation with James Gaither, Attorney for Bankrupt.	1
4/1/75	Showed office space in Shop-	1

	ping Center to Frelon Broome.	
4/2/75	Telephone conversation with James Gaither, Attorney for Bankrupt--work on inventory.	3
4/2/75	Letter to Metelpel Products, Inc., regarding rental payments. Carbon copies to The First National Bank of Catawba County and Attorney Bill Sigmon.	.1
4/2/75	Letter to The First National Bank of Catawba County regarding rental payments of Metelpel Products, Inc. Carbon copy to Bill Sigmon.	.1
4/3/75	Drafted Trustee's Inventory and forwarded to U. S. Bankruptcy Office with letter. Carbon to Attorney James Gaither.	2-3
4/10/75	Recorded Approval of Bond in Register of Deed Office for Ca-	.5

	tawba County.	
4/11/75	Telephone call to Attorney Grover Perrique who represents Bekins of California.	.5
4/14/75	Conference with Capitol Credit to enter into lease of space in Shopping Center.	.5
4/14/75	Conference with N. C. Department of Revenue man to review records of Bankrupt.	2
4/14/75	Conference with Attorney for The First National Bank of Catawba County, first mortgage holder.	1
4/15/75	Talked to man from McDonald's regarding a proposed lease.	.5
4/15/75	Talked to attorney representing second mortgage lien.	.5
4/15/75	Drafted Petition for Authorization	1.5

	of Trustee to Enter into Lease and Order for Authorization of Trustee to Lease property to Frelon Broome, Ins. Agency.	
4/16/75	Hearing in Statesville all afternoon--first meeting of creditors.	2
4/17/75	Telephone call with David Reulle.	1
	Telephone call with Frelon Broome regarding proposed lease of space in Shopping Center.	
4/17/75	Telephone call with City Engineer re right of way across Tate Boulevard property.	.5
4/17/75	Office conference with one of the second mortgage holders.	3
4/18/75	Conference with Attorney Butner and Attorney James Gaither. Research of Bankruptcy Rules regarding Bankruptcy Sales and procedure	3

	to follow to sell real estate free of certain liens.	
4/22/75	Telephone call with Mrs. Harris at Bankruptcy Office.	.5
4/24/75	Preparation of Order waiving appraisals.	1
4/28/75	Preparation of lease to Frelon Broome Ins. Agency.	2
4/29/75	Letters to three creditors: Deason Termite concerning an invoice; City of Hickory Tax Collector regarding notice of tax advertisement; and Tax Assessor for Los Angeles, California, regarding filing Report.	2
5/75	Correspondence with creditors including Bekins and The First National Bank of Catawba County.	1
5/75	Review Complaint of FCB and	2

signed Consent Judgment.

6/5-6/75 Prepared Complaint to sell real estate. 4

6/6/75 Prepared Order reducing time to file Answer to Complaint. 1

6/9/75 Sent to U.S. Bankruptcy Office. .5

6/16/75 Prepared Acceptance of Service and service of Complaint, Order and Summons on Defendant. Conferences with Defendants to accept service. 3

6/30/75 Hearing on Complaint to sell realty. 1

7/1/75 Telephone calls to Attorney for Bekins re procedure to let him have assets in California. .5

7/16/75 Preparation of advertisements of sale and services regarding publication thereof. Prep-

aration of brochure or summary of details pertaining to the real estate to be sold, which were distributed to interested persons.

7/21/75 Rented space to McDonald's franchise--Prepared Petition and proposed Order. 1

7/28/75 Sale--certain legal opinions or decisions were necessary in connection with sale. After sale, I met with the holders of the second Deed of Trust. 6

7/29/75 Confirmation Hearing before U.S. Bankruptcy Judge in Charlotte, where the second mortgage holders objected to confirmation. 2

7/29/75 Met separately with at- 1

	torney for second mortgage holders after Confirmation hearing.	
7/29/75	Telephone conferences with officials of tenants in possession of real estate of Golden Enterprises, Inc., regarding their status.	.5
7/29/75	Letters to the highest bidders on Tracts III and IV to return their checks and notify them that their bids were not confirmed.	1
7/30/75	Drafting lease to PPV, Inc., for Shopping Center lease.	1
7/30/75	Drafting on Confirmation Order.	2
7/31/75	Met with W. E. Butner and his representatives regard-	1

	ing status of real estate of Bankrupt.	
8/1/75	Preparation of Affidavit regarding ads for the Bankruptcy Sale and filing same with U.S. Bankruptcy Court.	1
8/1/75	Conference with PPV, Inc., to review and execute lease for space in Shopping Center.	1
8/1/75	Conference with Robert L. McKaughn, Jr., one of the second mortgage holders regarding status of Bankruptcy Sale and real estate of the Bankrupt.	1
8/2/75	Preparation of final draft of Confirmation Order and sent to U.S. Bankruptcy Court for filing.	2

8/4/75	Telephone conference with Attorney William E. Butner regarding status of Confirmation Order and real estate of the Bankrupt.	.5
8/4/75	Met with officials of Fidelity Federal Savings and Loan, first mortgage holder on the Shopping Center regarding status of Bankruptcy Sale and real estate of the Bankrupt.	.5
8/4/75	Moved records of Bankrupt from office space which was rented to PPV, Inc. Moved records into the one remaining space in the said Shopping Center.	2
8/8/75	Talked with Maurice Capps, CPA regarding legal status of real estate, including negotiations.	.5

8/8/75	Conference with Attorney for second mortgage holder.	.25
8/11/75	Conference with second mortgage holder (W. E. Butner) regarding private bids on real estate.	.5
8/12/75	One-half hour office conference with Howard Propst re Shopping Center.	.5
8/13/75	Telephone call from Charles Dixon re Tract IV leases.	.5
8/13/75	Telephone call from H. D. Frye regarding bidding, received bid of $225,000.00 on Shopping Center.	.1
8/15/75	Thirty minute meeting with Howard Propst re status of shopping center and negotiations for bid.	.5
8/18/75	Telephone call from Bob McKaughn	.1

re status of Bankruptcy Sale.

8/19/75 Telephone call from Bowman Investment Company re legal status of his bid. .1

8/20/75 Telephone calls from Maurice Capps and W. E. Butner re status of Bankruptcy Sale and negotiations for bids. .2

8/20/75 Review Appeal Notice and Motion and Brief for alteration of Judgment and Rehearing. Review legal status with Judd Lawing, CPA. 2

8/21/75 Telephone call from Howard Propst re bids-$231,000.00. .25

8/21/75 Telephone call from H. D. Frye re bids-$227,000.00. .25

8/21/75 Telephone call from Bank of Granite re status of Bankrupt-

cy Sale.

8/22/75 Meeting with Jack Sipe Construction Co. and W. E. Butner re bids on Tract IV. 1

8/23/75 Preparation of Petition to send off bids to U.S. Bankruptcy Court. 2

8/25/75 Telephone call from Bowman Investment Company regarding status of the Bankruptcy Sale. .1

8/25/75 Telephone call from Marice Capps re status of Shopping Center bids. .1

8/25/75 Conference with Attorney W. E. Butner regarding status of proceedings. .1

8/25/75 Telephone call from Robert L. McKaughn, Jr., regarding status of proceedings. .1

8/27-28/75	Preparation and drafting proposed Order to deny W. E. Butner's Motions.	3
9/2/75	Review of Stay Order signed by Woodrow W. Jones, setting a hearing on September 5, 1975.	.5
9/5/75	Hearing in Rutherfordton before Woodrow W. Jones on request by W. E. Butner for Supersedeas Bond. (Left office at 8:30 and arrived back at 1:00 p.m.)	4
9/12-17/75	Research and review in preparation of Brief to submit to Judge Woodrow W. Jones on appeal of Mr. Butner.	8
9/22-24/75	Preparation of Appeal Brief for U.S. District Court .	12
9/25/75	Appearance before U.S. District Court in Asheville, North Carolina to present oral arguments before the U.S. District Court Judge on appeal of W. E. Butner.	6

10/8-15/75	Miscellaneous conferences and correspondence with Attorneys for first mortgage holders regarding status of case on appeal. Correspondence with Judge Jones.	2
10/17/75	Conference with William E. Butner and Attorney Steve Brackett, at which time Mr. Butner made certain offers to purchase the Bankrupt's property.	1
10/27/75	Travel to Federal District Court in Statesville, North	2

	Carolina, to appeal before Judge Jones.	
10/28/75	Telephone conference with Clerk of Federal District Court in Statesville and telephone conference with Judge Jones regarding rehearing of the case on appeal.	.5
10/31/75	Hearing before U.S. District Court Judge on Appeal of W. E. Butner.	4
11/3-4/75	Preparation of Judgment for Judge Jones and correspondence and conference with Attorneys involved in Appeal to review proposed Judgment.	2
11/5/75	Delivered Judgment to U.S. District Court in Asheville.	3
11/7/75	Preparation of Notice of Re-	2

	sale and submission to newspaper. Telephone calls from Attorneys from Shelby Savings and Loan, the First National Bank of Catawba County, and Fidelity Federal Savings and Loan.	
11/8/75	Letters to previous high bidders to return checks and notify them of Resale.	2
11/11/75	Answering telephone inquiries regarding resale.	3
11/12/75	Held resale of real estate pursuant to Order of the U.S. District Court.	2
11/13/75	Telephone conference with Frank Baker Insurance Co., regarding insurance coverage on real estate. Subsequent let-	3

ter to Frank Baker Insurance Co., regarding insurance premium on Tate Boulevard building. Review of deeds to obtain correct legal description and references for real estate to be conveyed.

11/14/75 Drafting and rechecking legal description to be used in Trustee's Deed to purchaser. Telephone conversations with Attorney for Mr. W. E. Butner and with Attorney for Jack Sipe. Telephone call from Attorney James Gaither, Attorney for the Bankrupt. 3

11/17/75 Drafting proposed Trustee's Deed to William E. Butner and wife, Ann E. Butner. Telephone 6

call from Attorney for William E. Butner. Telephone call from Robert L. McKaughn, Jr.

11/18/75 Telephone call from Attorney for The First National Bank of Catawba County and Fidelity Federal Savings & Loan Association. .5

11/19/75 Office visit from Attorney for William E. Butner regarding signed agreements from Robert L. McKaughn, Jr., and Jack Sipe Construction Co., assigning interests in the Bankrupt's real estate to Mr. Butner. Telephone call to Attorney for Jack Sipe Construction Co., regarding status of said agreement. .5

11/20/75 Delivery of Trustee Deed to William E. Butner together .25

	with check for recording fee on Deed, and received from Mr. Butner executed copies of Assignments from Jack Sipe Construction Co., and Robert L. McKaughn, Jr.	
11-12/75	Telephone conferences and correspondence with Attorneys in California regarding goods stored in Bekins Storage Co.	1.5
12/1/75	Drafted letters to tenants of Golden Enterprises, Inc., notifying them of the new owners of the real estate formerly owned by Golden Enterprises, Inc.	.45
12/1/75	Review Motion for Distribution of Funds filed by William E. Butner.	.25
12/1/75	Letters to insurance company to cancel insurance coverage.	.25

12/4/75	Drafted letters to Duke Power Company, the City of Hickory and Central Telephone Company notifying them of the new owners of the real estate formerly owned by Golden Enterprises, Inc.	1
12/5/75	Drafted Petition and Order for Authorization of Trustee to Store Bankrupt's Records. Filed the same on December 11, 1975.	2
1/76	Review Bekins' Complaint to Recover, wherein Bekins sought to foreclose on its warehouse lien in California. Preparation of Answer and drafting proposed Consent Judgment.	2.5
	TOTAL HOURS	208.9

IV.

That this bankruptcy proceeding has pre-

sented the Trustee with many complicated legal matters. The undersigned has rendered valuable legal services to the Trustee in this proceeding, as hereinabove described.

V.

That the usual and normal charge for professional services rendered by the undersigned is at the rate of $50.00 per hour. The said rate of $50.00 per hour is very reasonable for the legal services rendered in this bankruptcy proceeding. A reasonable Attorney's fee to be paid the undersigned for legal services rendered to the Trustee during the administration of the bankrupt's estate is $10,445.00.

VI.

That the undersigned has incurred certain costs and expenses which have been advanced on behalf of the Trustee during the administration of the bankrupt's estate:

A. Long distance telephone charges: $36.67

To Bankruptcy Office, various creditors and their Attorneys, Clerk of District Court in Asheville and Statesville, and to Judge Jones.

B. Photocopies: 18.00

Copies of Deeds, Deeds of Trust, Leases, Assignments in Register of Deeds Office in connection with title examination and to prepare for Adversary Proceeding; Copies of various leases and other documents to give to various creditors and prospective bidders, including mortgage holders; Copies in connection with Appeal to U.S. District Court.

C. Postage 6.40

D. Travel and mileage:

Travel to Charlotte(adjudication nc

hearing)	
Travel to Statesville (first meeting of crditors)	nc
Travel to Charlotte (review files)	nc
Travel to Charlotte (hearing on adversary proceeding) (110 miles x 15 cents)	$16.50
Travel to Charlotte (confirmation hearing) (110 miles x 15 cents)	16.50
Travel to Charlotte (to file certain pleadings) (110 miles x 15 cents)	16.50
Travel to Rutherfordton (hearing on stay order) (100 miles x 15 cents)	15.00
Travel to Asheville (hearing on Appeal)	24.00

(160 miles x 15 cents)		
Parking	.75	
Travel to Statesville (hearing on Appeal) (60 miles x 15 cents)	9.00	
Travel to Asheville (deliver Order to Court) (160 miles x 15 cents)	24.00	
Parking	.75	$123.00
TOTAL EXPENSES		$184.07

VII.

That the undersigned has filed an Affidavit with the Court to comply with Rule 219 of the Bankruptcy Act.

THEREFORE, the undersigned Attorney hereby petitions the Court for an allowance of compensation for legal services rendered in the above-entitled bankruptcy proceedings in the sum of $10,445.00, plus the sum of $184.07 for expenses advanced as

hereinabove described.

This 19th day of January, 1976.

CAGLE & HOUCK

Attorneys at Law

By /s/ Joe N. Cagle

Joe N. Cagle, Attorney

Fidelity Federal Building

P.O. Box 2050

Hickory, North Carolina

28601

Telephone:(704)322-2207

(Verification omitted in printing)

(Jurat omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

OBJECTION TO ALLOWANCE OF CLAIMS

TO: U. S. Bankruptcy Judge

P. O. Box 1109

Charlotte, NC 28231

The undersigned Trustee of the above bankrupt objects to the allowance of certain claims filed herein.

The claims objected to and the grounds for the objections are as follows:

A. Claim No. 467 by First Citizens Bank and Trust Company in the amount of $215,887.79, upon the following grounds:

The collateral was released to this creditor pursuant to a Judgment of the U. S. Bankruptcy Court and this creditor no longer has a provable and allowable secured claim. The lien of this creditor was not disturbed or

affected by the bankruptcy proceeding. This creditor was released from the stay of the bankruptcy proceeding and allowed to pursue foreclosure remedies under State law.

B. Claim No. 471 by The First National Bank of Catawba County in the amount of $48,018.98, upon the following grounds:

The collateral was sold subject to this lien and this creditor no longer has a provable and allowable secured claim. The reason is that the lien of this creditor was unaffected by the sale, that it was not transferred to the proceeds, and that none of the funds in the hands of the Trustee were derived from the sale of the collateral involved. The lien of this creditor was not disturbed or affected by the bankruptcy proceeding. Therefore, this claim should be disallowed in toto because the secured creditor was left free to pursue and recover the collateral outside, without any interference of the Bankruptcy Court, and may subject the collateral

to the satisfaction of its claim.

C. Claim No. 469 by Fidelity Federal Savings and Loan Association in the amount of $176,143.35, upon the following grounds:

The collateral was sold subject to this lien and this creditor no longer has a provable and allowable secured claim. The reason is that the lien of this creditor was unaffected by the sale, that it was not transferred to the proceeds, and that none of the funds in the hands of the Trustee were derived from the sale of the collateral involved. The lien of this creditor was not disturbed or affected by the bankruptcy proceeding. Therefore, this claim should be disallowed in toto because the secured creditor was left free to pursue and recover the collateral outside, without any interference of the Bankruptcy Court, and may subject the collateral to the satisfaction of its claim.

D. Claim No. 464 by Shelby Savings and Loan Association in the amount of $980,507.02 upon the following

grounds:

The collateral was sold subject to this lien and this creditor no longer has a provable and allowable secured claim. The reason is that the lien of this creditor was unaffected by the sale, that it was not transferred to the proceeds, and that none of the funds in the hands of the Trustee were derived from the sale of the collateral involved. The lien of this creditor was not disturbed or affected by the bankruptcy proceeding. Therefore, this claim should be disallowed in toto because the secured creditor was left free to pursue and recover the collateral outside, without any interference of the Bankruptcy Court, and may subject the collateral to the satisfaction of its claim.

E. Claim No. 478 by William E. Butner (apparently on behalf of himself, Robert L. McKaughn, Jr., and Jack Sipe Construction Co.) in the amount of $360,000.00, upon the following grounds:

The collateral was sold free and clear of this lien

with the lien transferred from the property to the proceeds of the sale. The U. S. District Court allowed this creditor to bid at the sale with the amount of his debt in lieu of putting up cash. This creditor became the highest bidder at the resale of the collateral. Thus, none of the funds in the hands of the Trustee were derived from the sale of the collateral.

F. Claim No. 425 by William E. Butner and Robert L. McKaughn, Jr., in the amount of $250,000.00, upon the same grounds as stated in Objection E, supra. Further, this is a duplication of the claim referred to in Objection E.

G. Claim No. 482 by William E. Butner in the amount of $250,000.00, upon the same grounds as stated in Objection E, supra. Further, this is a duplication of the claim referred to in Objection E.

H. Claim No. 144 by Jack Sipe Construction Company in the amount of $81,248.46, upon the same grounds as stated in Objection E, supra. Further, this is a dupli-

cation of the claim referred to in Objection E.

I. Claim No. 143 by First Citizens Bank and Trust Company in the amount of $532,219.36, upon the following grounds:

The amount of this claim apparently included a secured claim which was paid in full during the "arrangement" period. It apparently also includes the claim referred to in Objection A, supra. Thus, the actual amount of the claim of this creditor needs to be determined. Further, the information from the bankrupt indicates that no amount is owing to this creditor.

J. Claim No. 192 by First Citizens Bank and Trust Company in the amount of $1,152,000.00 upon the same grounds as stated in Objection I.

K. Claim No. 436 by Marine Midland Leasing Corp. in the amount of $108,521.47, upon the following grounds:

This claim was partially compromised, settled, and paid during the "arrangement" period, leaving this

creditor with an unsecured claim for $67,495.61. In other words, Claim No. 477 by Marine Midland Leasing Corp. in the amount of $67,495.61 is allowed.

L. The Trustee has an apparent claim against William E. Butner, Robert L. McKaughn, Jr., and Jack Sipe Construction Co., for rent payments on Phase II of that certain building located on Tate Boulevard, Hickory, North Carolina, at the rate of $2,262.55 for the months of September - November, 1975. Thus, any claims from these creditors should be offset by said amounts.

WHEREFORE, the undersigned Trustee prays that said claims as above set forth be disallowed, or reduced by offsets as indicated, and for such other and further relief as indicated above.

This the 17th day of February, 1976.

/s/ Joe N. Cagle, Trustee

COUNSEL:

Joe N. Cagle, Attorney

CAGLE AND HOUCK, Attys.

Fidelity Federal Building

P. O. Box 2050

Hickory, NC 28601

Telephone: (704) 322-2207

(Certificate of Service omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

SUPPLEMENTAL PETITION FOR ATTORNEY'S FEES

The undersigned Attorney hereby files this Supplemental Petition for an allowance of compensation for professional services rendered to and for the Trustee in Bankruptcy for Golden Enterprises, Inc., since January 19, 1976, and respectfully shows unto the Court as follows:

I.

That the undersigned has rendered valuable and beneficial legal services to and for the Trustee since January 19, 1976, as follows:

Date	Services Rendered	Hours
January 20, 1976	Drafting Petition for Attorney's Fees and Affidavit under Rule 219	2.5

February 9, 1976	Examination of proof of claims on file in the U.S. Bankruptcy Office	6
February 10, 1976	Review of Bankrupt's records to verify validity and amounts of certain proof of claims	3.5
February 16, 1976	Preparation and drafting Trustee's Objections to allowance of claims and filing same with the Bankruptcy Office	3.5
February 18, 1976	Drafting Petition for private sale of file cabinets and filing same with the U.S. Bankruptcy Court	1
February 19, 1976	Preparation and drafting Final Report of Trustee	5
	TOTAL HOURS	21.5

II.

That the usual and normal charge for professional

services rendered by the undersigned is at the rate of very reasonable for the legal services rendered in this bankruptcy proceeding.

III.

That the undersigned has incurred certain costs and expenses since January 19, 1976, which have been advanced on behalf of the Trustee during the administration of the bankrupt's estate:

A. Travel and mileage:

Travel to Charlotte (examination of claims)	$16.50

B. Long distance telephone charges:

To Bankruptcy Office	$ 6.50
TOTAL EXPENSES	$23.00

IV.

That the undersigned has filed an Affidavit with the Court to comply with Rule 219 of the Bankruptcy Act.

THEREFORE, the undersigned Attorney hereby peti-

tions the Court for an allowance of compensation for legal services rendered in the above-entitled bankruptcy proceedings in an additional sum of $1,075.00 for a total of $11,520.00, plus additional expenses of $23.00, for total expenses of $207.07.

This the 19th day of February, 1976.

CAGLE AND HOUCK

Attorneys at Law

By: /s/ Joe N. Cagle, Attorney

Fidelity Federal Building

P. O. Box 2050

Hickory, North Carolina 28601

Telephone: (704) 322-2207

(Verification omitted in printing)

(Jurat omitted in printing)

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

TRUSTEE'S FINAL REPORT

TO: U. S. Bankruptcy Judge

The undersigned Trustee in Bankruptcy for the above-named bankrupt files this Final Report as follows:

I.

An itemized, detailed account of the receipts and disbursements since the last interim report is as follows:

RECEIPTS SINCE LAST INTERIM REPORT

December 10, 1975 Frank Baker Ins.--Return of unearned ins. premium $381.00

DISBURSEMENTS SINCE LAST INTERIM REPORT

November 17, 1975 Intangible Tax--Deducted by Bank $ 7.70

December 1, 1975 Frank Baker Ins.--Partial

	fire ins. premium	52.30
December 5, 1975	Shelton Wynne--Labor to store records	15.00
December 5, 1975	Bill Hurst--Labor to store records	15.00
January 6, 1976	Abernethy Transfer & Storage Co.--Storage charges	30.00
January 22, 1976	First Security Company--Trustee bond	200.00
January 31, 1976	Abernethy Transfer & Storage Co.--Storage charges	10.00
	Total Disbursements	$330.00

II.

The total receipts during this bankruptcy proceeding to date have been $163,638.99, including accrued interest on savings. The balance on hand is $158,635.43 in savings and $837.34 on checking, at North Carolina

National Bank, Hickory, North Carolina. Thus, the total balance on hand is $159,472.77.

III.

Golden Enterprises, Inc., filed a Petition in Bankruptcy for an Arrangement under Chapter XI on May 4, 1973. Thereafter, Golden Enterprises, Inc., was adjudged a bankrupt on February 14, 1975. The first meeting of creditors was held on April 16, 1975. Thus, creditors had until October 16, 1975, in which to file claims.

First Citizens Bank and Trust Company filed an Adversary Proceeding in May, 1975, seeking to recover certain real estate from the bankruptcy proceeding in order to foreclose under its Deed of Trust. A Judgment was entered by the U.S. Bankruptcy Judge on June 4, 1975, allowing First Citizens Bank and Trust Company to recover said real estate.

On or about June 11, 1975, the Trustee filed a Complaint in the U. S. Bankruptcy Court seeking to sell

the remaining real estate free of certain liens. On June 30, 1975, a Hearing was held and the U. S. Bankruptcy Judge ordered the sale. The sale was held on July 28, 1975, and a Confirmation Order was entered on August 11, 1975. The Confirmation Order was appealed to the U. S. District Court on August 19, 1975. Thereafter, an Order of the U.S. District Court was entered on November 7, 1975, directing the Trustee to resell the real estate on November 12, 1975. The Trustee's Deed was dated November 19, 1975, and delivered to the purchasers.

In January, 1976, Bekins Moving & Storage Co., of Los Angeles, California, filed an Adversary Proceeding seeking permission to allow it to foreclose on the goods in its warehouse. A Judgment was entered by the U. S. District Court on January 30, 1976, granting Bekins Moving & Storage Co., authority to foreclose on its warehouse lien under the laws of the State of California.

The Trustee stored the Bankrupt's records at Abernethy Storage & Transfer Co., for safekeeping pending the closing of the bankruptcy proceeding. Thus, all tangible assets of the bankrupt estate have been disposed of except the bankrupt's records to be disposed of and four metal file cabinets, and, the Trustee has filed a Petition seeking authority to sell the four cabinets at private sale.

IV.

All the assets as listed on the Statement of Assets filed by the Bankrupt's Attorney have been disposed of or otherwise accounted for (see Paragraph III, supra) except the possible "lawsuits" against National Velvet Plusch, Inc., U. S. Properties, Inc., for breach of leases and National Cash Register for possible breach of warranty. The Trustee has been unable to locate any documents, records or obtain sufficient information on which to substantiate these items. Further, National Velvet Plusch, Inc., and U. S. Properties went out of

business in 1974 and there are no assets to be found.

However, there is an outstanding claim for rent against Travel World for the months of October and November, 1975, totaling $650.00. Also, there is an outstanding claim for lease payments against William E. Butner, Robert L. McKaughn, Jr., and Jack Sipe Construction Co., at the rate $2,262.55 for the months of September-November, 1975, for a total sum of $6,787.65. Therefore, the Trustee recommends that these accounts be sold to the highest bidder at the final meeting of creditors.

V.

I or my attorney have examined the claims on file with the Bankruptcy Judge and believe that the same should be allowed for the amounts therein claimed, or for such other amounts as have been fixed by orders of this Court, or the amounts contained in the Trustee's Objections now pending. The Trustee has objected to Claim Nos. 467, 471, 469, 464, 478, 425, 482, 144, 143,

192 and 436.

VI.

I have examined into the amount paid prior to filing the Petition to any attorney for the bankrupt for services rendered or to be rendered in connection with this bankruptcy proceeding. Insofar as I have been able to determine, no payment was made to any attorney for filing the Petition in Bankruptcy.

VII.

The undersigned requests the sum of $2,303.50 as compensation for his services as Trustee, and the sum of $11,520.00 as compensation for legal services rendered as Attorney for the Trustee. The undersigned has filed separate Petitions wherein the professional services are described in detail. Also, the affidavit required by Rule 219(a) was filed with the Court on January 20, 1976.

VIII.

The disbursements by the Trustee to date have been

charged to the costs of administration. The following is a tentative schedule reflecting the claims of those (except the claims to which the Trustee has objected) who claim a priority:

Name	Amount	Expenses
Joe N. Cagle, Trustee	$ 2,303.50	
Joe N. Cagle, Attorney for Trustee	$11,520.00	$ 207.07
Referee's Salary & Expense Fund (fee)	$ 5,165.17	
Referee's Salary & Expense Fund (special services)	$ 736.00	
Referee's Salary & Expense Fund (during Arrangement phase)	Unknown	
James M. Gaither, Jr., Attorney for Bankrupt	$34,433.75 (Bal. under Ct. Order 6/11/74)	$2,240.13

James M. Gaither, Jr., Attorney for Bankrupt	$18,665.00 (Supplemental Petition)	$2,576.39
Joseph H. Frier, Jr., Arthur I. Winard and J. Carroll Abernethy, Jr., Attorneys for Creditors' Committee	$22,000.00	$1,000.00
Lawing, Rowe & Company, Accountants	$ 4,137.25	
Jack Sipe Construction Co., Contractor during Arrangement phase	$26,451.77	
Tax Collector City of Hickory Hickory, NC 28601	$ 3,271.54	
Internal Revenue Service P. O. Box 20541 Greensboro, NC 27420	$50,388.28	
N. C. Department of Revenue P. O. Box 25000		

Raleigh, NC 27611

Attention: James P. Senter $31,437.41

N. C. Department of Revenue

P. O. Box 25000

Raleigh, NC 27611

Attention: James P. Senter $ 3,537.39

Employment Security Commission

of N. C.

P. O. Box 25903

Raleigh, NC 27611 $ 2,527.33

Employment Security Agency

Georgia Department of Labor

296 State Labor Building

Atlanta, GA 30334 $ 1,518.70

Director of Department of

Employment

State of California

Sacramento, CA 95867 $ 2,278.98

Director of Department of

Employment

State of California

Sacramento, CA 95867 $ 729.89

Tax Collector

Hally County

Gainesville, GA 30501 $ 576.63

State Revenue Commissioner

of Georgia

410 Trinity-Washington Building

Atlanta, GA 30334 $2,045.81

California Franchise Tax Board

Sacramento, CA 95867 $ 400.00

WHEREFORE, the undersigned Trustee requests that this Final Report be approved and confirmed and that the Court schedule a final meeting of creditors for the following purposes:

A. to hear the Trustee's Objections To Claims;

B. to hear any objections to this Final Report;

C. to set allowances for fees and commissions in this Bankruptcy proceeding;

D. to sell any accounts receivable or choses in action to the highest bidder;

E. to hear all other matters now pending;

F. to enter an Order of final distribution;

G. and to discharge the Trustee as by law provided.

This the 20th day of February, 1976.

/s/ Joe N. Cagle, Trustee

COUNSEL:

Joe N. Cagle, Attorney

Cagle and Houck, Attys.

Fidelity Federal Building

P. O. Box 2050

Hickory, NC 28601

Telephone: (704) 322-2207

IN THE DISTRICT COURT FOR THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

AMENDMENT TO TRUSTEE'S FINAL REPORT

TO: U.S. Bankruptcy Judge

The undersigned Trustee files this Amendment to the Final Report as follows:

Paragraph VIII of the Trustee's Final Report is amended to reflect the correct applications for allowances filed by the Attorneys for the Creditors' Committee, as follows:

Name	Amount	Expenses
Joseph H. Frier, Jr., and J. Carroll Abernethy, Jr., Attorneys for Creditors' Committee	$22,000.00	$1,000.00
Arthur I. Winard, Attorney for Creditors' Committee	$16,312.00	$ 46.76

This Amendment to the Trustee's Final Report is dated this the 31st day of March, 1976.

/s/ Joe N. Cagle, Trustee

COUNSEL:

Joe N. Cagle, Attorney

Cagle and Houck, Attys.

Fidelity Federal Building

P. O. Box 2050

Hickory, NC 28601

Telephone: (704) 322-2207

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

BRIEF IN SUPPORT OF APPLICATION FOR FEES

BY THE ATTORNEY FOR THE DEBTOR

THIS BRIEF is offered in support of the application for fees submitted by James M. Gaither, Jr., attorney for the debtor in the above captioned matter.

Bankruptcy Rule 11-31, entitled, "Compensation for Services and Reimbursement of Expenses," reads as follows:

"Bankruptcy Rule 219 applies in Chapter XI cases. Reasonable compensation for services beneficial to the estate and reimbursement of necessary expenses may be allowed to the attorney for the debtor and debtor in possession whether or not a plan is confirmed."

In the above captioned matter this Chapter XI pro-

ceeding was instituted on May 4, 1973. A plan was accepted by the requisite amount in number and amount of creditors, but debtor was unable to obtain a confirmation of the plan. An amended plan of arrangement was approved and ordered. Debtor was unable to obtain confirmation of this plan due to the lack of funds for use as a deposit. This Chapter XI was terminated and adjudicated a straight bankruptcy in February, 1975.

James M. Gaither, Jr., attorney for the debtor, has heretofore filed application for fees pursuant to Bankruptcy Rule 219. The applications are dated and filed on December 18, 1973; May 20, 1974 and August 18, 1975.

Pursuant to the applications filed December 18, 1973 and May 20, 1974, an Order was entered on June 11, 1974 by Judge Cruciani (see attached Exhibit A) ordering payment of the sum of $34,443.75 as attorney fees and $2,240.13 as expenses. The sum of $9000.00 has been paid to Gaither pursuant to that order leaving a

balance due of $25,443.75 plus $2240.13 due for expenses incurred. No consideration has been made of the Application filed August 18, 1975. (See Exhibit B attached.)

Bankruptcy Rule 219 sets forth the manner and scope of an application for fees by the attorney. With respect to an attorney's compensation, it has been said that, "the principal factors which enter into a determination of what is reasonable are the time spent, the intricacy of the questions involved, the size of the estate, the opposition encountered, the results obtained, and the economic spirit of the Bankruptcy Act to curtail unnecessary expenses." In Re Paramount Merrick, Inc., 252 F Second 482, 485, 2nd Circuit, (1958). Although the Western District of North Carolina local bankruptcy rules are not set forth in Colliers on Bankruptcy, the Middle District Rules are. Local Bankruptcy Rule No. 40 for the Middle District of North Carolina states:

"Rule 49(c) Fixing Fees.

In fixing compensation of an attorney the following factors shall be taken into consideration: (1) Amount of work done, (2) Length of time employed, (3) Difficulties or intricacies of the bankruptcy proceedings, (4) Results accomplished, (5) Amount involved in connection with services rendered, (6) Size of the estate, (7) The skill and experience of counsel in similar cases, (8) Contingency or uncertainty of compensation."

I would like to comment on the various factors regarding the fixing or allowing of a fee in this matter.

A. Time Spent: My time is before the Court for the consideration of the Court.

B. The size of the estate: The bankrupt estate consisted of real and personal property worth in excess of 2.5 - 3 million dollars as follows:

Real Estate	3 building lots	$ 30,000
Shopping Center		300,000
Continental Systems Supply		350,000

Metelpel	75,000
Tate Boulevard	1,000,000
5 Acres	50,000
Subtotal	1,805,000
Inventory	700,000
Total	$2,505,000

In addition the estate generated income from sale or lease of real and personal property from May, 1973 to February, 1975 in excess of one million dollars as follows:

Sale of Thomasville fixtures & inventory	$ 175,000
Sale in ordinary course of business of inventory (net)	300,000
Commercial Credit	
Sale of inventory to Silverware Sales	174,000
Rental income for 22 months (5/73-2/75)	450,000
Total	$1,099,000

In addition proceeds from a loan negotiated with Shelby Savings and Loan were received and disbursed

to creditors in the amount of $435,000.

The size of the estate is further illustrated by the number of claims of creditors directly paid, settled or compromised during the period from May, 1973 - February, 1975. For a more detailed explanation, please refer to the Golden Enterprises, Inc. Bankruptcy File. The following is a list of litigated matters, amounts involved and results obtained:

1. Confirmation of Thomasville, North Carolina inventory and fixture sale; May, 1973; $175,000 paid to creditors.
2. Litigation/Matsushita v. Golden Enterprises, Inc., May, 1973-July, 1973; $13,000 paid or compromised.
3. Litigation/Golden Enterprises, Inc. v. William Grooh, May, 1973; $50,000 inventory returned from Georgia to North Carolina.
4. Commercial Credit Business Loan, Inc., May, 1973 - July, 1974. This complex matter re-

sulted in payment to Commercial Credit Business Loans, Inc. of more than $300,000 and involved litigation to return inventory from California and Georgia.

5. Marine Midland Bank/litigation. Resulted in payment and compromise of $108,000 claim.
6. Shelby Savings and Loan transaction was a very complex matter, involving construction of 45,000 square foot building and payments and settlements to creditors, secured and unsecured, in the amount of $545,000 as follows:

a. First Citizens Bank $275,000 prior construction loan

b. Growth Enterprises 70,000 purchase money deed of trust

c. Contractor 70,000 labor & material to complete

d. Supplies 110,000 labor & materials

e. Taxes 18,000

New construction created additional rent from completion to February, 1975, in excess of $50,000. Shelby increased a loan from $550,000 to $755,000 to allow proposal of Plan of Arrangement. Negotiations were extensive and involved hundreds of hours with attorneys, Board of Directors and Shelby officials.

C. Intricacies of the problems involved: This Chapter XI was attempted because of the debtor's valuable real estate and its potential to pay all debts through the collection of long term rents.

During the Chapter XI all lending institutions were paid monthly with rental income. In addition ad valorem taxes in the amount of $18,000 in 1973, and $6,000 in 1974 were paid. Utilities and insurance were paid. At the end of 22 months (February, 1975) all lending institutions were current except as noted in status reports to the Court. (See Exhibit C attached).

Attorney for debtor drafted numerous documents during Chapter XI that involved financing, securing secured creditors, protective priorities and leases. All involved negotiations. A brief summary follows:

1. Negotiate and draft U.S. Properties lease, 24 May, 1973.
2. Negotiate and draft Young lease, 10 May, 1973.
3. Negotiate and draft Superior Continental lease, 1 January, 1974, Phase I.
4. Negotiate and draft Superior Continental lease, 1 August, 1974, Phase II
5. Draft Superior Continental lease, 19 July, 1974
6. Negotiate and draft Butner, McKaughn, Sipe agreement, 29 July, 1974.
7. Draft and negotiate easement, 15 November, 1974.
8. Draft agreements between second mortgage holders.

9. Draft and negotiate agreement between Butner, McKaughn, Sipe and Creditors Committee, 28 February, 1974.

10. Negotiate Amended Plan of Arrangement, November, 1973 - February 14, 1974.

11. Various suits were filed and litigated with respect to sale free of liens.

12. Drafted second deed of trust to Butner, McKaughn, Sipe, including hours of negotiations.

D. Results Obtained. The most important results obtained were acceptance of a Plan of Arrangement and an Amended Plan of Arrangement and the payment to secured and some unsecured creditors of more than $1,000,000. The work done with the real estate, especially from July, 1974 until February, 1975, saved the estate a receiver's fee. With the exception of Mr. Joe Golden, who collected and disbursed rents, the company had no employees from July, 1974, until adjudication, yet much work was done.

In addition James M. Gaither, Jr. acted as Disbursing Agent for $175,000 received for the sale of inventory in the summer of 1974. The balance of this account $1473.76 was turned over to Joe Cagle on April 1, 1975. No compensation has been set or received for this work. Also, the funds were received as a result of negotiations between the purchaser, Thomas Golden, and James M. Gaither, Jr. The sales price was $20,000 higher than any other offer.

Exhibit D attached sets forth the circumstances regarding the Amended Plan of Arrangement. Exhibit E is a former affidavit in support of fees.

RESPECTFULLY SUBMITTED,

/s/ James M. Gaither, Jr.

Attorney for Debtor

P. O. Box 1650

Hickory, NC 28601

Telephone: 704-322-5505

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

RECEIPTS AND DISBURSEMENTS SINCE DATE OF FINAL REPORT

767a

TO: U. S. Bankruptcy Judge

I.

An itemized, detailed account of the receipts and disbursements since the date of the Final Report is as follows:

RECEIPTS

Frank Baker Ins.--Return of insurance premium:	$ 935.70
Interest on savings:	$ 2,624.48
	$ 3,560.18

DISBURSEMENTS

March 1, 1976	Abernethy Transfer & Storage Co.--Storage charges	$ 10.00
April 1, 1976	Abernethy Transfer & Storage Co.--Storage charges	$ 10.00
May 11, 1976	Abernethy Transfer & Storage Co.--Storage charges	$ 10.00
May 13, 1976	Split Second Printing--final notice	$ 21.63
June 4, 1976	Abernethy Transfer & Storage Co.--Storage charges	$ 10.00
	TOTAL	$ 61.63

768a

II.

The total receipts during this Bankruptcy proceeding to date have been $167,399.17, including accrued interest on savings. The total disbursements have been $4,427.85. The balance on hand is $161,259.91 in savings and $1,711.41 on checking, at North

Carolina National Bank, Hickory, North Carolina. Thus, the total balance on hand is $162,971.32.

Dated this the 10th day of June, 1976.

/s/ Joe N. Cagle, Trustee

COUNSEL:

Joe N. Cagle, Attorney

Cagle and Houck, Attys.

Fidelity Federal Building

P. O. Box 2050

Hickory, NC 28601

Telephone: (704) 322-2207

The Order of the United States Bankruptcy Court by the Honorable Marvin R. Wooten, Bankruptcy Judge, dated July 1, 1976, is to be found in the Appendix to the Petition for Certiorari at pages 2a-20a.

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA-STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

(Caption omitted in printing)

NOTICE OF APPEAL TO DISTRICT COURT

WILLIAM E. BUTNER, secured creditor of the above-captioned bankrupt, appeals to the District Court from the Order of the Bankruptcy Judge, the Honorable Marvin R. Wooten, entered in this cause on July 1, 1976, which said Order approved and ratified and confirmed in part the Final Report of the Trustee in the above-entitled action and disbursed funds now held by the Trustee and found the said William E. Butner to be an unsecured rather than a secured creditor of this bankrupt estate, and taxing all expenses coincidental to the administration of this estate prior to and subsequent to being adjudicated bankrupt to the real estate.

The parties to the Order appealed from and the

addresses of their respective attorneys are as follows:

1. James M. Gaither, Jr.

   Attorney for the Bankrupt

   Post Office Box 1650

   Hickory, North Carolina 28601

2. W. George Huffman

   Attorney for Jack Sipe Construction Company

   Post Office Box 2021

   Hickory, North Carolina 28601

3. C. B. Cash, Jr.

   Attorney for Shelby Savings and Loan Association

   Post Office Box 729

   Shelby, North Carolina 28150

4. William R. Sigmon

   Attorney for Fidelity Federal Savings and Loan Association and the First National Bank of Catawba County

   Post Office Box 1792

   Hickory, North Carolina 28601

5. E. Murray Tate, Jr.

Attorney for First-Citizens Bank and Trust Company

Post Office Drawer 2428

Hickory, North Carolina 28601

6. Joe N. Cagle

Trustee for Bankrupt

Post Office Box 2050

Hickory, North Carolina 28601

7. Joseph H. Frier, Jr.

Attorney for Creditors' Committee

Seven Dey Street

New York, New York 10007

8. Arthur I. Winard

Attorney for Creditors' Committee

475 Fifth Avenue

New York, New York 10017

9. J. Carroll Abernethy, Jr.

Attorney for Creditors' Committee

Post Office Box 1492

Hickory, North Carolina 28601

10. William J. Lawing

Certified Public Accountant

Post Office Box 2675

Hickory, North Carolina 28601

11. Charles B. Camp

Employee

Shelby, North Carolina 28150

This the 9th day of July, 1976.

/s/ William E. Butner

BUTNER, RUDISILL & BRACKETT

Attorneys for the Appellant

Post Office Box 2323

Hickory, North Carolina 28601

Telephone: (704) 322-3130

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

BANKRUPTCY NO. ST-B-73-6

JOE N. CAGLE, Trustee in Bankruptcy for Golden Enterprises, Inc., et al., Appellees, vs. WILLIAM E. BUTNER, Appellant.

AFFIDAVIT AND SUPPLEMENTAL REPORT

OF THE COURT

Now comes JOE N. CAGLE, Trustee, and J. CARROL ABERNETHY, JR., Attorney for the Creditors Committee and say:

WHEREAS, U. S. District Court Judge Woodrow Jones has held numerous hearings and heard arguments in this appeal, the latest being in chambers on November 4, 1976, at Asheville, North Carolina; and

WHEREAS, at said hearings, Appellant has made certain representations in his arguments regarding his equities in the matter, to wit, that he had to pay

some $30,000.00 in ad valorem taxes and had received only small amounts from the sale and refinancing of the properties which he purchased from the Bankrupt Estate;

AND WHEREAS, the undersigned have certain information regarding Appellant's acquisition of the property that should be brought out since it bears on the equities in this matter;

NOW, THEREFORE, the undersigned first being duly sworn, show unto the Court on information and belief as follows:

1. That Appellant purchased all of Golden Enterprises' real estate at the Bankruptcy sale subject to outstanding first mortgages and ad valorem taxes.

2. That Appellant paid ad valorem taxes to City of Hickory for the year 1974 in the amount of $3,503.49, which sum represented the balance due for Golden's 1974 taxes. Golden Enterprises and not Appellant paid all of the 1974 Catawba County real property

ad valorem taxes (See Exhibit 1 attached).

3. That Appellant paid $8,077.85 to City of Hickory for 1975 real property ad valorem taxes for Golden Enterprises. (See Exhibit 2 attached).

4. That Appellant paid $6,336.60 to Catawba County for 1975 real property ad valorem taxes of Golden Enterprises. (See Exhibit 3 attached).

5. That Appellant sold a portion of the Tate Boulevard Tract to Carter-Hickory Corporation on April 7, 1976, for a sales price of $1,000,000.00. From the proceeds of this sale, the first mortgage to Shelby Savings and Loan Association in the sum of $820,033.00 was paid off, which sum included payment of an attorney's fee of $10,000.00 for Shelby's attorney. The real estate taxes totaling $17,917.94 (as described in paragraphs 2, 3, and 4, supra) were also apparently paid from the sales proceeds. Thus, the Appellant apparently received net proceeds or profit from this sale in the sum of $162,049.06.

6. That Appellant refinanced the Shopping Center with mortgages to the Wilkes Savings and Loan Association in the total sum of $212,000.00. The first mortgage to Fidelity Federal Savings and Loan Association in the total sum of $191,965.76 was paid off, which sum included payment of an attorney's fee of $975.00 for Fidelity's attorney. Thus, the Appellant apparently received net proceeds or profit from this refinance in the sum of $28,034.24.

7. That Appellant refinanced the Continental Systems Building Tract with a mortgage to Wilkes Savings and Loan Association in the amount of $290,000.00. The first mortgage to Shelby Savings and Loan Association in the total sum of $223,532.50 was paid off, which sum included payment of an attorney's fee of $5,000.00 for Shelby's attorney. Thus, the Appellant apparently received net proceeds or profit from this refinance in the sum of $66,467.50.

8. That Appellant refinanced the Metelpel Building

Tract with a mortgage to Taylorsville Savings and Loan Association in the amount of $85,000.00. The first mortgage to First National Bank of Catawba County in the total sum of $48,520.51 was paid off, leaving Appellant with an apparent net proceeds or profit in the sum of $36,479.49.

9. That Appellant has retained the 5-acre vacant tract of land near Tate Boulevard, which remains unencumbered. This vacant tract was valued at $50,000.00 during the period of the Arrangement and the Appellant apparently still owns said tract free and clear.

10. That Appellant has apparently sold one-half interest in the Continental Systems Building, the Shopping Center, and the Metelpel Building to a Robert Yount, subject to the new mortgages referred to above, but the sales price therefor is unknown.

11. That the Appellant has apparently received net proceeds or profit from the sales and refinancing, supra, in the total sum of $343,030.29. Nevertheless,

the Appellant is still pursuing a claim of $186,000.00, which would net him an even bigger windfall, since he still owns most of the real estate and especially since the real estate is obviously worth more than the amounts of the new mortgages outstanding thereon. Thus, it appears that the Appellant may have made a cash profit of $157,030.29 and he still wants to increase the same.

12. That at the time of the Bankruptcy sale of the Golden real estate to the Appellant, the amount of the $360,000.00 second mortgage was actually reduced to the sum of $272,200.00 as a result of the following: Mr. McKaughn's interest was reduced by the sum of $30,000.00 and Sipe's claim was reduced by the sum of $57,800.00, pursuant to their written agreements with Mr. Butner. Therefore, from an "out of pocket" standpoint, the principal obligation on the second mortgage that Mr. Butner was bidding with was effectively reduced to the sum of $272,200.00. The Appellant obtained the land with a bid of $174,000.00

which was also applied to the outstanding balance on the second mortgage, thereby leaving a balance on that obligation of $98,200.00. And if the Appellant did in fact receive the net proceeds or profit of $343,030.29 from the sales and refinancing as hereinabove described, then his overall profit to date would be at least $244,830.20, and he wants to increase the same at the expense of everyone else in this Bankruptcy Proceeding.

13. That if the Appellant prevails in this Appeal and receives any sizeable portion of the funds in the hands of the Trustee and pays one of his creditors, i.e., The Bank of Granite in the approximate sum of $125,000.00 as the Appellant argued at the last Hearing before this Court (which loan funds were not paid to Golden but were used to repay Appellant's Bank loan at NCNB), then the Appellant will still have made a profit of over a quarter of a million dollars in this matter.

THEREFORE, the undersigned respectfully request the Court to accept this Affidavit as additional informa-

tion in this Bankruptcy Appeal Proceeding.

This 11th day of November, 1976.

/s/ Joe N. Cagle, Trustee

CAGLE AND HOUCK, Attorneys

P. O. Box 2050

Hickory, NC 28601

Telephone: (704) 322-2207

/s/ J. Carroll Abernethy, Jr.

Attorney for Creditors Committee

P. O. Box 1492

Hickory, NC 28601

Telephone: (704) 322-1060

(Jurat omittted in printing)

783a

TAX RECEIPT 19 74 Exhibit 1

Tax Notice No. 7252

CITY OF HICKORY, North Carolina

RECEIVED OF Golden Enterprises, Inc

Valuation ..... X Rate .....

$ 3,092.71

Interest - - - + - - - $ 408.78

Amount Paid - - - + $ 150.00

Received Payment $ 3,503.49

April 9 19 76

Arthur W. Miller
TAX COLLECTOR

This is certification of failure of 1974 taxes on above entry paid

784a

Exhibit 2

CITY OF HICKORY
BOX 398
HICKORY, N.C. 28601

YEAR 1975 NO.

ACCOUNT NO.	VALUE OF REAL ESTATE
	VALUE OF PERSONAL PROPERTY
G.S. 105-277-1	TOTAL VALUE
	TAX DUE $

Golden Enterprises

RATE

PERMANENT RECORD

CITY OF HICKORY
BOX 338
HICKORY, N.C. 28601

YEAR 1975 NO. 03938

ACCOUNT NO.	VALUE OF REAL ESTATE
	VALUE OF PERSONAL PROPERTY
G.S. 105-277-1	TOTAL VALUE 1,272,800
TAX DUE	$ 7,591.36
INTEREST	$ -142.52
AMOUNT PAID	$ 7748.54

int + 329.31

8077.85

AL PAYMENTS

AL	INTEREST

ITION
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FUND
PROVEMENTS
ATE
CEMBER. INTEREST
PLUS ½% 1ST DAY
AFTER UNTIL PAID.
OUR RECORDS.
OUR RECEIPT.
I ONLY ON REQUEST.

MAIL RIGHT HAND STUB WITH PAYMENT TO →

Arthur W. Miller
Paid April 9, 1976

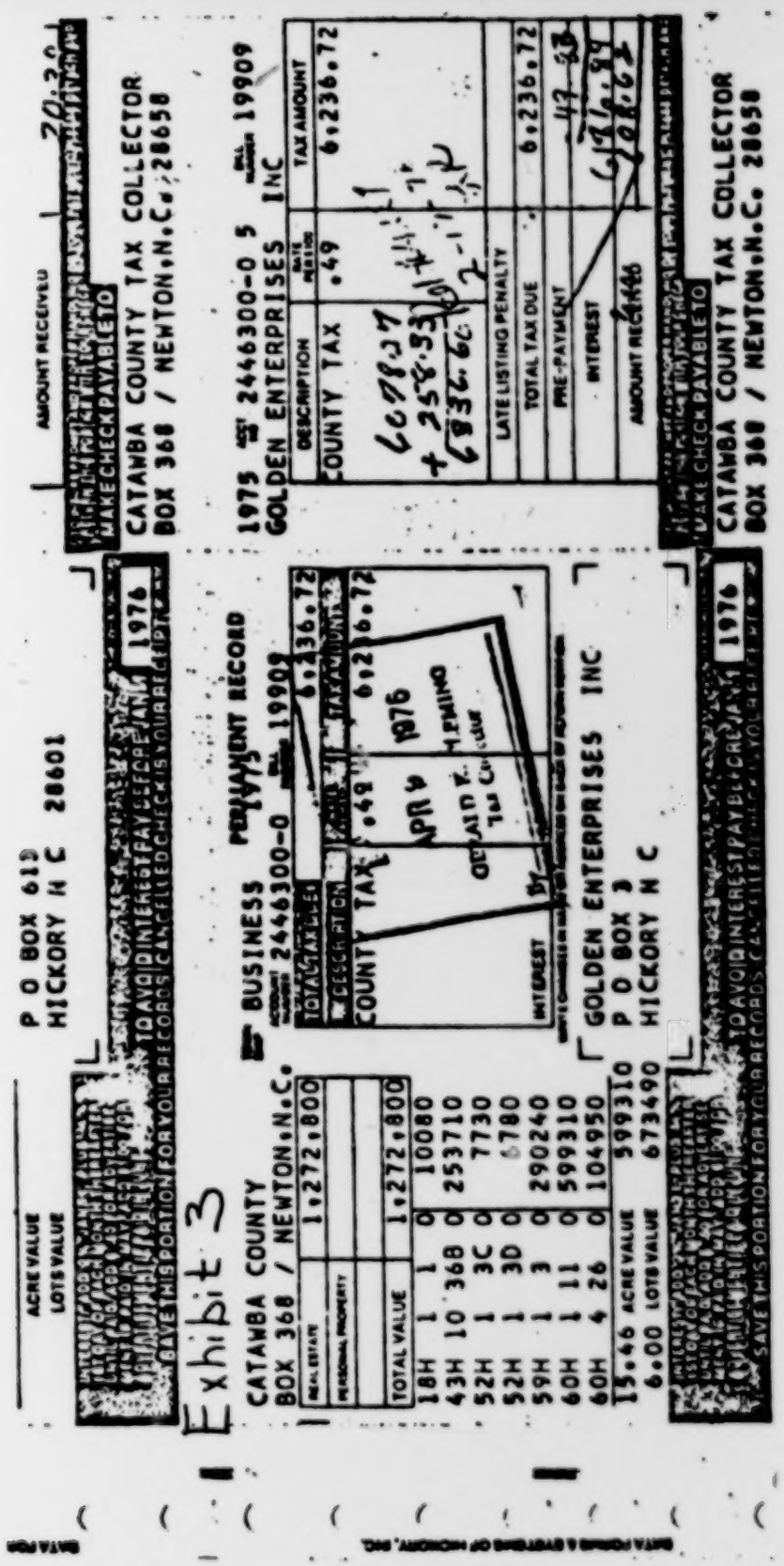

Exhibit 4 (text of document omitted in printing by permission of James M. Gaither, Jr., Attorney for Debtor)

Warranty Deed from William E. Butner and wife, Ann E. Butner to Carter-Hickory Corporation dated April 7, 1976, for the Tate Boulevard property; revenue stamps: $1,000.00; acknowledged April 8, 1976; filed April 9, 1976 at 2:35 p.m. in Catawba County Registry in Book 1094, Page 308.

Exhibit 5 (text of document omitted in printing by permission of James M. Gaither, Jr., Attorney for Debtor)

Deed of Trust from William E. Butner and wife, Ann E. Butner, to Clyde Hayes, Trustee for Wilkes Savings & Loan Association, dated May 28, 1976, in the principal sum of $290,000.00, covering a 3.1 acre tract bounded by Martel Co. and Little Street; acknowledged May 28, 1976; filed May 31, 1976 at 4:20 p.m. in Catawba County Registry in Book 1099, Page 22.

Exhibit 6 (text of document omitted in printing by permission of James M. Gaither, Jr., Attorney for Debtor)

Deed of Trust from William E. Butner and wife, Ann E. Butner, to Rom L. Teague, Sr., Trustee for Taylorsville Savings & Loan Association in the principal sum of $85,000.00, covering Lots 12 through 17, Block B, St. Stephens Lutheran Church property; acknowledged December 15, 1975; filed December 15, 1975 at 12:40 p.m. in Catawba County Registry in Book 1084, Page 715.

Exhibit 7 (text of document omitted in printing by permission of James M. Gaither, Jr., Attorney for Debtor)

Deed of Trust from William E. Butner and wife, Ann E. Butner, to Clyde Hayes, Trustee for Wilkes Savings & Loan Association dated March 1, 1976, in the principal sum of $206,000.00, covering the shopping center property; acknowledged March 15, 1976; filed March 15,

1976 at 2:30 p.m. in Catawba County Registry in Book 1091, Page 964.

Exhibit 8 (text of document omitted in printing by permission of James M. Gaither, Jr., Attorney for Debtor)

Deed of Trust from William E. Butner and wife, Ann E. Butner, to Clyde Hayes, Trustee for Wilkes Savings & Loan Association, dated April 30, 1976, in the principal sum of $6,000.00, covering the shopping center property; filed April 30, 1976 at 4:55 p.m. in Catawba County Registry in Book 1096, Page 33.

Exhibit 9 (text of document omitted in printing by permission of James M. Gaither, Jr., Attorney for Debtor)

Warranty Deed from William E. Butner and wife, Ann E. Butner, to Robert L. Yount, dated April 12, 1976; $1.00 revenue; conveying: Tract I - 3.1 acre tract bounded by Martel Co. and Little Street subject to a deed of trust in favor of Shelby Savings and Loan As-

sociation as recorded in Book 967, Page 28, Catawba County Registry; Tract II - shopping center property subject to a deed of trust in favor of Wilkes Savings & Loan Association as recorded in Book 1091, Page 964, Catawba County Registry; Tract III - Lots 12 through 17, Block B, St. Stephens Lutheran Church property, subject to a deed of trust in favor of Taylorsville Savings & Loan Association as recorded in Book 1084, Page 715, Catawba County Registry; acknowledged April 12, 1976; filed July 15, 1976 at 11:30 a.m. in Catawba County Registry in Book 1103, Page 303.

(Certificate of Service omitted in printing.)

The Memorandum and Order of the United States District Court for the Western District of North Carolina, Statesville Division, by the Honorable Woodrow W. Jones, Chief Judge, dated November 12, 1976, is to be found in the Appendix to the Petition for Certiorari at pages 21a-30a.

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

NOTICE OF APPEAL

Notice is hereby given that the Trustee in Bankruptcy for Golden Enterprises, Inc., the Attorneys for the Creditors' Committee, the Attorney for the Bankrupt, the Bankrupt, William J. Lawing, C.P.A., and Charles B. Camp, hereby appeal to the U. S. Court of Appeals for the Fourth Circuit from the Order of the Honorable Woodrow W. Jones, Chief Judge of the U. S. Court for the Western District of North Carolina, dated November 12, 1976, and filed in the Office of the Clerk on November 16, 1976.

This 15th day of December, 1976.

CAGLE AND HOUCK

Attorneys for Joe N. Cagle,

Trustee in Bankruptcy

By /s/ Joe N. Cagle, Attorney

Fidelity Federal Building

P. O. Box 2050

Hickory, NC 28601

Telephone: (704) 322-2207

JOSEPH H. FRIER, JR., ARTHUR I. WINARD and J. CARROLL ABERNETHY, JR.,

Attorneys for the Creditors' Committee

By /s/ J. Carroll Abernethy, Jr.,

Attorney

P. O. Box 1492

Hickory, NC 28601

Telephone: (704) 322-1060

GAITHER AND GORHAM

Attorneys for Bankrupt

By /s/ James M. Gaither, Jr.,

Attorney

North Carolina National Bank Building

P. O. Box 1650

Hickory, NC 28601

Telephone: (704) 322-5505

GAITHER AND GORHAM

Attorneys for James M. Gaither, Jr.

By /s/ James M. Gaither, Jr.,

Attorney

North Carolina National Bank Building

P. O. Box 1650

Hickory, NC 28601

Telephone: (704) 322-5505

GAITHER AND GORHAM

Attorneys for William J. Lawing, C.P.A.

By /s/ James M. Gaither, Jr.,

Attorney

North Carolina National Bank Building

P. O. Box 1650

Hickory, NC 28601

Telephone: (704) 322-5505

/s/ Charles B. Camp

P. O. Box 249

Shelby, NC 28150

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA-STATESVILLE DIVISION

(Caption omitted in printing)

NOW COMES the United States of America, by and through Keith S. Snyder, United States Attorney for the Western District of North Carolina, and hereby appeals from the judgment of the Court filed in this action November 16, 1976.

Keith S. Snyder

United States Attorney

/s/ Jimmie C. Proctor

Assistant United States Attorney

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA

STATESVILLE DIVISION

(Caption omitted in printing)

AFFIDAVIT OF TRUSTEE

Joe N. Cagle, being first duly sworn, deposes and says:

I.

That Golden Enterprises, Inc., was adjudged a bankrupt on February 14, 1975, and Joe N. Cagle is the duly appointed and acting Trustee in Bankruptcy for said Bankrupt and this Affidavit is made upon personal knowledge of the facts herein contained.

II.

That the Trustee did receive certain rents from the real property during the month of February, 1975, and the Trustee proceeded to write checks to the first mortgage holders and to pay utility bills for the month of February, 1975. (All payments to the second mort-

gage holders had previously been stopped during the Arrangement Period. On information and belief, the payments to the second mortgage holders ceased some time during the latter part of 1974).

III.

That on the same date that the Trustee wrote the checks to the first mortgage holders and utility companies, a Monthly Financial Report for the month of February, 1975, was prepared and mailed to the U.S. Bankruptcy Office by the Trustee. A copy of said Financial Report is annexed hereto as Exhibit "A".

IV.

That upon receipt of the Monthly Financial Report for February, 1975, (Exhibit "A"), Mrs. Joan Harris, one of the Clerks of the U. S. Bankruptcy Office, telephoned the Trustee and informed him that the Trustee was not supposed to make any mortgage payments. When the Trustee questioned this instruction, Mrs. Harris checked with the Clerk, Mrs. Saunders, and

she also informed the Trustee not to make any mortgage payments. Upon further questioning by me, either Mrs. Harris and/or Mrs. Saunders checked with the U. S. Bankruptcy Judge and informed me in a subsequent telephone call that the U. S. Bankruptcy Judge informed them to direct the Trustee not to make any mortgage payments.

V.

That after receiving the telephone call from the U.S. Bankruptcy Office, the undersigned Trustee immediately went to the Bank and stopped payment on the checks which he had previously written to the first mortgage holders. Thereupon, the Trustee prepared an Amended Monthly Financial Report for February, 1975, and filed the same with the U. S. Bankruptcy Judge. A copy of said Amended Monthly Financial Report is annexed hereto as Exhibit "B."

VI.

That the reason given to the Trustee for the instruc-

tions not to make any mortgage payments was that such payments could be considered preferential payments, and, further, the rental income would be needed to pay the costs of administration.

VII.

That the Trustee personally informed the mortgage holders, including first and second mortgage holders, that he would not be making any mortgage payments, pursuant to the instructions of the U. S. Bankruptcy Judge. Thereafter, the Trustee wrote letters to all mortgage holders, informing them of the first meeting of creditors and enclosing a copy of the Notice and Automatic Stay of Proceedings against the Bankrupt.

VIII.

That all the mortgage holders were represented by legal Counsel in this Bankruptcy Proceeding and one has to presume that their Counsel was aware of the fact that a mortgage holder desiring to foreclose had to file an Adversary Proceeding and obtain Court ap-

proval and a release from the "Automatic Stay" of the Bankruptcy law. Only First Citizens Bank and Trust Company filed such an Adversary Proceeding. At no time did Mr. Butner file an Adversary Proceeding to legally request that the Bankruptcy Court allow him to foreclose his second mortgage.

/s/ Joe N. Cagle, Trustee

CAGLE AND HOUCK, Attys.

Fidelity Federal Building

P. O. Box 2050

Hickory, North Carolina 28601

Telephone: (704) 322-2207

(Jurat omitted in printing)

(Certificate of Service omitted in printing)

Exhibit A, Monthly Financial Report for February, 1975, and Exhibit B, Amended Monthly Financial Report for February, 1975, are reprinted in their entirety in Volume I of the Appendix on pages 346a to 352a, supra.

The opinion of the United States Court of Appeals for the Fourth Circuit, decided December 8, 1977, is to be found in the Appendix to the Petition for Certiorari at pages 31a-42a.

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

WASHINGTON, D.C. 20543

June 12, 1978

William E. Butner, Esq.

P.O. Box 2323

Hickory, North Carolina 28601

RE: William E. Butner v. United States

et al., No. 77-1410

Dear Mr. Butner:

The Court today took the following action in the above case:

"The petition for a writ of certiorari is granted."

Enclosed are memorandums describing the time requirements and procedures under the Rules.

The additional docketing fee of $50, Rule 52(a), is due and payable.

Very truly yours,

MICHAEL RODAK, JR.,
Clerk

By /s/ June M. Hoffmann

(Miss) June M. Hoffmann

Assistant Clerk

Enclosures

AIR MAIL